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FIFTH ANNUAL REPORT

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OF THE

Board of Railroad Commissioners

OF THE

STATE OF NEW YORK,

For the Fiscal Year Ending September 30, 1887.

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TRANSMITTED TO THE LEGISLATURE JANUARY 17, 1888.

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COMMISSIONERS:

WILLIAM E. ROGERS, | ISAAC V. BAKER, JR.,  
MICHAEL RICKARD.

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VOLUME I.

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THE TROY PRESS COMPANY, PRINTERS.  
1888.

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# STATE OF NEW YORK.

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No. 8.

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## IN SENATE,

JANUARY 17, 1888.

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### FIFTH ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS ON THE  
RAILROADS OF THE STATE.

OFFICE OF THE  
BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, *January 9, 1888.*

*To the President of the Senate:*

The Board of Railroad Commissioners, agreeably to the provisions of chapter 353, Laws of 1882, transmits herewith to the Legislature its Fifth Annual Report for the year ending September 30, 1887.

WILLIAM C. HUDSON,

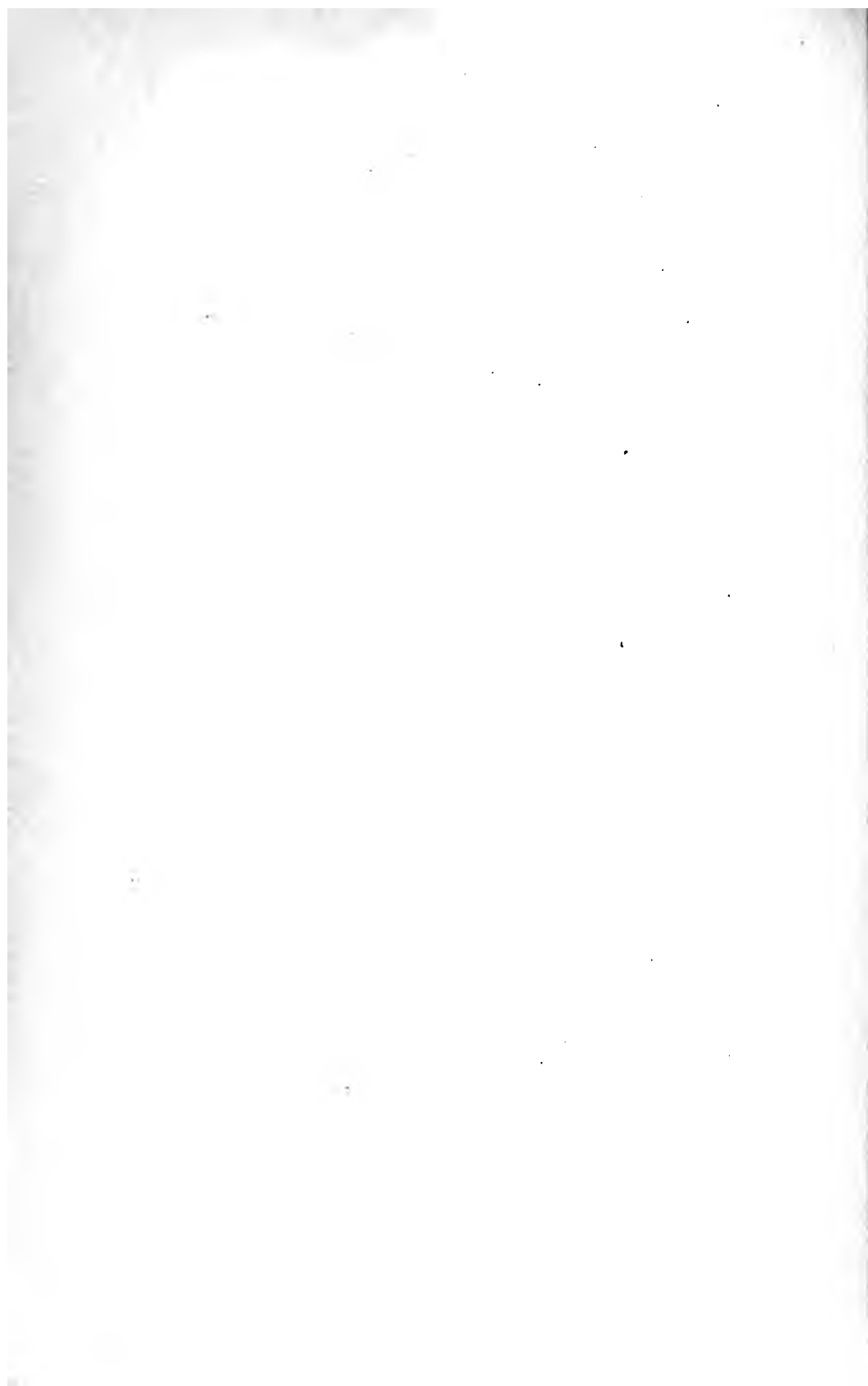
*Secretary.*



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# REPORT.

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STATE OF NEW YORK:

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, *January 9, 1888.* }

*To the Honorable the Legislature of the State of New York:*

Chapter 353 of the Laws of 1882, requires the Board of Railroad Commissioners to report to the Legislature on or before the second Monday of January. Agreeably to the requirements of said law the Board submits its Fifth Annual Report.

## GENERAL SITUATION.

The year ending September 30, 1887, was one of continued prosperity to the railroads as a whole.

The great feature of the year was the passage of the Inter-State Commerce Bill, which became a law on the 4th of February, 1887, and went into effect on the 5th day of April of the same year. A copy of the law will be found on page 471 of the Appendix. The numerous embarrassing questions involving the regulation of commerce "among the several States," which had been of necessity more or less subjects of consideration before this Board, theretofore, are now within the cognizance of the Inter-State Commission, whose jurisdiction is beyond any question.

Great apprehension had been felt by the railroads lest the operation of the law would lead to embarrassment if not loss. These apprehensions, however, have not been fulfilled. A sufficient length of time has elapsed since the act went into effect to pretty well test its operation, and it is the general verdict of those interested that it has operated with much less friction than was expected.

The leading features of the act, in the language of the Inter-State Commission, in its first annual report, are as follows :

"All charges made for services by carriers, subject to the act, must be reasonable and just. Every unjust and unreasonable charge is prohibited, and declared to be unlawful.

"The direct or indirect charging, demanding, collecting or receiving, for any service rendered, a greater or less compensation from any one or more persons than from any other, for a like and contemporaneous service, is declared to be unjust discrimination, and is prohibited.

"The giving of any undue or unreasonable preference, as between persons or localities, or kinds of traffic, or the subjecting any one of them to undue or unreasonable prejudice or disadvantage, is declared to be unlawful.

"Reasonable, proper and equal facilities for the interchange of traffic between lines, and for the receiving, forwarding and delivering of passengers and property between connecting lines is required, and discrimination in rates and charges, as between connecting lines, is forbidden.

"It is made unlawful to charge or receive any greater compensation in the aggregate for the transportation of passengers, or the like kind of property, under substantially similar circumstances and conditions for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance.

"Contracts, agreements or combinations for the pooling of freights of different and competing railroads, or for dividing between them the aggregate or net earnings of such railroads or any portion thereof, are declared to be unlawful.

"All carriers subject to the law are required to print their tariffs for the transportation of persons and property, and to keep them for public inspection at every depot or station on their roads. An advance in rates is not to be made until after ten days' public notice, but a reduction in rates may be made to take effect at once' the notice of the same being immediately and publicly given. The rates publicly notified are to be the maximum as well as the minimum charges which can be collected or received for the services respectively for which they purport to be established.

"Copies of all tariffs are required to be filed with this Commission, which is also to be promptly notified of all changes that shall be made in the same. The joint tariffs of connecting roads are also required to be filed, and also copies of all contracts, agreements or arrangements between carriers in relation to traffic affected by the act.

"It is made unlawful for any carrier to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time schedules, carriage in different cars, or by other means or device, the carriage of freights from being continuous from the place of shipment to the place of destination."

The most serious cause of apprehension as to the working of the act upon the part of the railroads was that derived from the fourth section in regard to the long and short haul. This clause has given rise to so much discussion that the Board deems it worth while to insert it herein.

"§ 4. That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation in the aggregate

for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act."

Throughout the United States the conditions of competition had frequently, in the opinion of railroads, made it necessary to charge more for a shorter than for a longer haul. The Board will not here repeat its discussions upon this subject but refers to the following cases in its previous reports for an exposition of its views thereon: Report for 1884, pp. 90, 102, 160; Report for 1885, pp. 66, 73, 136; Report for 1886, p. 97.

The railroads had very generally feared that the continuance of charging more for a shorter than for a longer haul, under whatever circumstances of competition, without the affirmative permission of the Inter-State Commission, would have subjected them to the penalties of the act. That Commission, however, decided *in re* the Louisville and Nashville Railroad Company and others, that the railroads must be the judges in the *first instance* with regard to the similarity or dissimilarity of the circumstances and conditions that forbid or permit a greater charge for shorter distances, but at their peril. This interpretation has left them in the condition of being permitted to continue such charge, but in case of a complaint against them for violation of the fourth section, throws the burden of proof upon them to show that such charge is justified by the conditions. The points decided by the Commission in the above case are so important and far reaching, that the Board deems it proper to insert them here:

"The points that are intended to be decided at this time are as follows:

"*First*—That the prohibition in the fourth section against a greater charge for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance, as qualified therein, is limited to cases in which the circumstances and conditions are substantially similar.

"*Second*—That the phrase 'under substantially similar circumstances and conditions' in the fourth section, is used in the same sense as in the second section;



and under the qualified form of the prohibition in the fourth section carriers are required to judge in the first instance with regard to the similarity or dissimilarity of the circumstances and conditions that forbid or permit a greater charge for shorter distance.

*Third*—That the judgment of carriers in respect to the circumstances and conditions is not final, but is subject to the authority of the Commission and of the courts, to decide whether error has been committed, or whether the statute has been violated. And in case of complaint for violating the fourth section of the act the burden of proof is on the carrier to justify any departure from the general rule prescribed by the statute by showing that the circumstances and conditions are substantially dissimilar.

*Fourth*—That the provisions of section one, requiring charges to be reasonable and just, and of section two, forbidding unjust discrimination, apply when exceptional charges are made under section four as they do in other cases.

*Fifth*—That the existence of actual competition which is of controlling force, in respect to traffic important in amount, may make out dissimilar circumstances and conditions entitling the carrier to charge less for the longer than for the shorter haul over the same line in the same direction, the shorter being included in the longer in the following cases :

"1. When the competition is with carriers by water which are not subject to the provisions of the statute.

"2. When the competition is with foreign or other railroads which are not subject to the provisions of the statute.

"3. In rare and peculiar cases of competition between railroads which are subject to the statute, when a strict application of the general rule of the statute would be destructive of legitimate competition.

*Sixth*—The Commission further decides that when a greater charge in the aggregate is made for the transportation of passengers or the like kind of property for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance, it is not sufficient justification therefor that the traffic which is subjected to such greater charge is way or local traffic, and that which is given the more favorable rates is not.

"Nor is it sufficient justification for such greater charge that the short haul traffic is more expensive to the carrier, unless when the circumstances are such as to make it exceptionally expensive, or the long haul traffic exceptionally inexpensive, the difference being extraordinary and susceptible of definite proof.

"Nor that the lesser charge on the longer haul has for its motive the encouragement of manufacturers or some other branch of industry.

"Nor that it is designed to build up business or trade centers.

"Nor that the lesser charge on the longer haul is merely a continuation of the favorable rates under which trade centers or industrial establishments have been built up.

"The fact that long haul traffic will only bear certain rates is no reason for carrying it for less than cost at the expense of other traffic."

Another case of very considerable importance as affecting the citizens of this State was that with regard to the export rates from Boston and other ports. Under the trunk line agreement it had been and is the rule to charge a greater rate on grain from Chicago to

Boston than to New York. In view of the fact, however, that ocean rates from New York to Liverpool are about the same as from Boston to Liverpool, a rebate is allowed upon grain shipped by way of Boston to Liverpool and other foreign ports so as to equalize the through rates from the western shipping point to Liverpool or other foreign ports. Petitions from the Fitchburg; Boston and Lowell; New York and New England; Central Vermont, and Boston and Albany railroad companies were lodged with the Inter-State Commission to adjudicate the question as to whether such rebate was in contravention of the law. It was alleged and shown by the petitioners and others interested in the Boston export trade, that if such rebate were disallowed, exporting grain from Boston would be impossible. The Commission decided, in effect, that such rebate was not in contravention of the law under all the circumstances, if its purpose "is only to do indirectly what might directly be done by bill of lading issued at the interior point of shipment for the delivery of the goods at a foreign destination, and if no discrimination is made between persons engaged in the foreign traffic but the rebate is paid impartially and only as a means of protecting the Boston route for the export trade against an excessive charge that would be ruinous to it." The petitioners were allowed to withdraw their petition.

The relations of the trunk lines to each other were essentially changed by the enactment of the Inter-State Law, inasmuch as section 5 thereof prohibits "pooling." Under an agreement existing previous to the passage of such act (which will be found in full in the report of this Board for 1885) the trunk lines had agreed to maintain certain rates from their western termini to the seaboard, and in the reverse direction. Arrangements were also made for certain rates with their western connections and affiliated roads. Each line was permitted to carry certain percentages of freight, which percentages had been arrived at as the result of unregulated competition for a series of years. Any excess that one road might carry over its allotted percentage was to be reimbursed by a money payment to the pool, so that the inducement was taken away from any railroad to increase its business by a "cut" of rates. This money payment, by the way, was substituted for an actual diversion of the freight, which had been the arrangement pre-existing this last agreement alluded to. This diversion of freight had led to so many abuses and inconveniences that it was abolished in conformity with a recommendation from this Board. After the passage of the Inter-State Commerce Act, new articles of association were entered into by

the trunk lines. The agreement was signed on the 7th day of April, 1887. The preamble recites as follows:

"WHEREAS, The Inter-State Commerce Law, taking effect April the 4th, 1887, requires all the railroads which are subject to the law to establish, publish and maintain reasonable and just tariffs of transportation, both for freight and passenger traffic; and

"WHEREAS, The co-operation of the several railroad companies which exchange traffic with each other and which enter into joint traffic arrangements is necessary in order to make said tariffs, classifications, etc., conform with the law and to avoid unjust discrimination between localities and shippers; and

"WHEREAS, On account of the complicated business relations of so many railroads whose business offices are located in different parts of the country, it is desirable, in order to secure this co-operation and bring about a principal organization through which the business between the several railroad companies may be promptly and efficiently transacted, the following named railroad companies, to-wit: New York Central and Hudson River Railroad Company; West Shore Railroad Company; Delaware, Lackawanna and Western Railroad Company; New York, Lake Erie and Western Railroad Company; Pennsylvania Railroad Company, Baltimore and Ohio Railroad Company; Philadelphia and Reading Railroad Company \* \* \* and such other railroads or transportation companies in the same territory as may hereafter become parties hereto, agree to form an association to be called 'The Trunk Line Association,' for the purpose of facilitating the transaction and interchange of business with each other and with their connecting roads, in conformity with the requirements of the Inter-State Commerce Law."

The agreement then goes on, in generally the same manner as the agreements heretofore, to create an organization to co-operate in the transaction of business. No method, however, is provided for the punishment or discipline of any of the members thereof which shall violate the agreement. It will be noticed that the Grand Trunk line of Canada is not a signer thereof. From the date of the execution of this instrument until about the middle of November the agreements were generally observed and rates maintained on the basis of twenty-five cents a hundred pounds from Chicago to New York on grain. About that time, however, the Grand Trunk railroad lowered its rates on dressed beef, and on November the 18th all the other roads lowered theirs to meet the cut in the Grand Trunk. Serious apprehension that this will initiate another period of unregulated competition, or, in other words, a railroad war, is felt. Should such be the case it will result in great depreciation of property and with no corresponding benefit to either producer or consumer.

It is also alleged that the law has been evaded in various ways, such as giving false weights, that is, loading a car with 30,000 or 40,000 pounds and charging but for 20,000 pounds, and also in false classifications, taking first class goods at fourth class rates, and so on.

An important step has been taken recently by the trunk lines in the adoption of a joint table of classification both for east and west business, superseding the various tables theretofore existing with their complications and uncertainties; a most desirable move in the direction of uniformity. Railroads have also made an agreement to grade through rates to Liverpool by the eastern ports, Portland, Boston, New York and Philadelphia, on the basis of the sum of local rates.

#### SUMMARY OF BUSINESS FOR THE YEAR.

A largely increased business was done last year. The total for all roads and the details for each are given with great particularity in the second volume of this report. A few of the grand totals and most important final results are given here as usual.

	1886.	1887.
Gross earnings from operation of road .....	\$125,160,289 48	\$143,724,490 62
Operating expenses.....	79,260,798 30	92,439,974 60
Net earnings from operation of road.....	45,899,491 18	51,284,516 02
Income from other sources than operation of road.....	4,449,391 66	5,453,671 81
*Interest paid and accrued.....	25,873,372 99	24,937,671 50
Taxes.....	4,645,676 93	5,018,907 21
Miscellaneous.....	1,270,270 46	1,039,697 49
*Dividends declared.....	11,178,176 67	13,822,674 10
Surplus.....	4,658,191 48	8,284,403 60
Stock and debt.....	1,224,772,611 29	1,269,501,238 40
Cost of road and equipment.....	1,138,370,480 55	1,180,585,882 42
Percentage of gross income to cost of road and equip- ment.....	04.42	04.81
Percentage of net income to capital stock.....	02.60	02.91
Percentage of dividends declared to capital stock.....	01.83	02.19
Miles of road built in New York State.....	7,288.19	7,883.38
Tons of freight carried one mile.....	10,640,849,655	12,094,162,719
Increase in 1887 of 13.66 per cent.		
Average freight earnings per ton per mile (cents).....	0.78	0.796
Average freight expenses per ton per mile.....	0.49	0.514
Average freight profit per ton per mile.....	0.29	0.282
Passengers carried one mile (exclusive of elevated roads).....	1,890,734,634	2,010,016,812
Increase in 1887 of 09.77 per cent.		
Average earnings per passenger per mile (cents).....	2.3	2.36
Average expenses per passenger per mile (cents).....	1.4	1.51
Average profit per passenger per mile (cents).....	0.9	0.85

NOTE.—By far the greater part of the marked increase in 1887 of stock, debt and cost of road and equipment is due to the fact that the figures as to these items embrace those of the entire "Fitchburg" system against the comparatively small items of the "Boston, Hoosac Tunnel and Western" railroad and "Troy and Boston" railroad in 1886. And as to the earnings of the said "Fitchburg" road for the *whole year* are included in 1887 against some four or five months of the earnings in 1886 of the other two companies named, no small part of the apparent increase in the volume of business in 1887 is properly attributable to this fact. Just what these proportions amount to can only be arrived at by a careful analysis of the detailed reports of these respective companies, which appear in the second volume of this report.

\* Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	1886.	1887.
Interest.....	\$6,854,273 18	\$7,468,149 29
Dividends.....	3,481,812 17	3,614,988 60

#### SUPREMACY OF THE CITY OF NEW YORK.

In its Third Annual Report (for the year 1885), the Board gave a table compiled from data furnished by the Bureau of Statistics of the United States Treasury Department, showing the value of the



exports of domestic merchandise, and of imports, from and at the ports of New York, Boston, Philadelphia and Baltimore, exclusive of coin and bullion, and the percentage of each to the total from such ports for the last ten years. The Board did not repeat this table last year for the reason that the relative percentages of the different ports of exports and imports remained so nearly the same. A decided change, however, has taken place during the year ending June 30, 1887, in the very largely increased proportion of Baltimore's exports. The Board, therefore, again publishes these tables.

## EXPORTS.

YEAR ENDING JUNE 30.	NEW YORK.		BOSTON.		PHILADELPHIA.		BALTIMORE.		Total.
	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	
1878.....	\$327,276,478	70.5	\$46,542,044	10.6	\$44,508,089	9.7	\$45,492,527	9.7	\$463,769,138
1879.....	327,796,819	68.2	48,100,019	10.1	47,013,751	9.7	57,474,495	12.	480,385,084
1880.....	385,506,602	67.8	58,023,587	10.	49,612,196	8.8	76,220,870	13.2	569,353,254
1881.....	293,658,208	67.6	72,100,193	12.3	44,147,296	7.6	72,444,413	12.5	582,350,110
1882.....	332,102,136	70.5	61,614,526	13.1	37,957,661	8.1	39,412,642	8.3	471,086,065
1883.....	347,308,334	69.3	61,273,101	12.2	38,132,145	7.6	54,856,050	10.9	501,609,630
1884.....	320,016,246	69.2	62,528,000	13.5	36,467,799	8.	43,064,217	9.3	462,076,262
1885.....	334,718,227	69.8	61,378,633	12.8	38,642,516	8.	45,041,634	9.4	479,781,010
1886.....	304,497,611	71.4	53,428,513	12.4	33,719,861	7.9	35,844,829	8.3	427,489,814
1887.....	306,842,375	68.	57,775,166	12.8	35,361,976	7.8	51,601,118	11.4	451,680,525
Total....	\$3,379,672,036	69.1	\$582,663,772	11.9	\$405,563,189	8.3	\$521,552,795	10.6	\$4,889,551,792

## IMPORTS.

YEAR ENDING JUNE 30.	NEW YORK.		BOSTON.		PHILADELPHIA.		BALTIMORE.		Total.
	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	
1878.....	\$292,797,559	79.7	\$40,298,023	10.8	\$19,333,496	5.2	\$16,899,855	4.3	\$369,298,933
1879.....	302,349,053	79.3	40,448,791	10.7	24,377,271	6.4	14,017,604	3.6	381,192,719
1880.....	450,937,133	78.7	68,303,136	11.7	35,944,500	6.2	19,945,989	3.4	584,330,778
1881.....	435,450,905	79.8	61,960,103	11.2	32,583,108	6.	16,180,816	3.	546,183,930
1882.....	493,080,891	80.6	69,594,057	11.4	34,136,579	5.6	14,398,238	2.4	611,729,785
1883.....	496,005,276	80.4	72,552,075	11.7	33,738,556	5.5	14,599,179	2.4	616,895,086
1884.....	465,119,650	80.7	65,965,551	11.5	33,657,216	5.8	11,423,665	1.9	576,066,082
1885.....	380,077,748	80.	53,445,929	11.2	29,919,019	6.3	11,819,686	2.5	475,252,392
1886.....	419,338,932	79.7	58,430,707	11.1	26,561,313	7.	11,636,944	2.2	526,027,896
1887.....	456,098,631	80.1	61,018,330	10.7	39,962,349	7.	12,535,920	2.2	570,205,230
Total....	\$4,200,835,778	80.	\$592,088,702	11.3	\$320,203,405	6.	\$144,096,926	2.7	\$5,257,222,811

It will be seen from the above that Baltimore has risen from \$35,844,829 in 1886, to \$51,601,118 in 1887, and that New York has fallen from having exported 71 $\frac{1}{2}$  per cent of all exports, in value, from these four ports, to 68 per cent. A further investigation of this alteration shows that Baltimore's gain has been almost exclusively in wheat and wheat flour.



## REFERENCES AND COMPLAINTS.

During the twelve months ending September 30, 1887, the Board has considered and disposed of sixteen references by the Governor, the Legislature and committees thereof, and numerous complaints preferred by cities, towns, associations, individuals, etc. The determinations in these matters are to be found in the Appendix (P. 3, *et seq.*), to which reference is made for a full exposition thereof.

## ACCIDENTS.

The record of accidents shows an increase of 29 in the total number of people killed, and 122 injured, as compared with the previous year, 1886. The following table gives a record of the accidents classified first as to their causes, and second as to whether beyond the control of the killed or injured, or in consequence of their own misconduct or want of caution, for the years ending September 30, 1887 and 1886:

## FIFTH ANNUAL REPORT OF THE

CAUSE OF ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.				TOTAL.			
	1887.		1888.		1887.		1888.		1887.		1888.		1887.		1888.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fell from train, engine or cars.	6	9	3	4	99	30	59	83	8	11	45	117	41	108	146	3
Getting on or off trains in motion.	7	31	9	28	11	57	3	11	30	49	47	150	9	148	146	3
Striking low bridges, tunnels, etc.	1	1	1	3	8	9	7	1	1	1	12	9	1	1	1	1
Passengers putting heads or arms out of windows, or missiles thrown in.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Conductors uncoupling cars.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Walking or being on track.	1	1	1	1	20	437	23	385	5	5	124	242	24	387	171	3
Crossing track at highways.	6	10	1	1	102	68	61	69	247	111	341	222	269	387	171	3
Protected with gates or flagmen.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Not protected with gates or flagmen.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Catching foot in frog or between rails.	1	1	1	1	4	7	4	7	12	9	21	30	49	21	30	49
Derailed by misplaced switch.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Derailed by broken frog or switch.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Derailed by broken axle.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Derailed by broken wheel.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Derailed by defective track.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Derailed from unknown causes.	18	1	21	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, butting by misplaced switch.	1	1	1	1	12	3	3	7	1	1	1	1	1	1	1	1
Collisions, butting by neglect of orders or signals.	1	1	1	1	12	4	16	4	1	1	1	1	1	1	1	1
Collisions, butting with hand car.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, butting by parting of trains.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, butting by accidental obstruction.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, butting by malicious interference.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, butting by causes unexplained.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, rear, by misplaced switch.	1	1	1	1	4	2	1	1	1	1	1	1	1	1	1	1
Collisions, rear, by meeting of trains.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, by meeting of trains.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Collisions, at grade crossings of railroads.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Failure of bridge, cattle-guard or trestle.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Locomotive explosions.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Other train accidents.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Other causes.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Casualties not caused by trains, engines or cars.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	22	91	39	96	199	900	159	788	311	269	314	265	632	1,260	593	1,138
From causes beyond their own control.	2	35	19	62	9	73	26	140	1	8	12	117	60	213	80	213
By their own misconduct or inattention.	16	60	9	31	124	616	30	327	266	201	405	869	340	1,546	546	1,546
Reported as caused by intoxication.	2	2	2	4	3	2	2	2	28	28	32	29	34	32	29	34
Undetermined as to want of caution or otherwise.	2	4	2	8	64	208	63	311	16	83	12	18	82	245	77	337
	22	91	30	96	199	900	159	788	311	269	314	265	632	1,260	593	1,138

A careful investigation of the causes of death and injury show that the *increase* was not the result of defective construction, rules or discipline, but rather of unpreventable causes or of misconduct or carelessness upon the part of those killed or injured. While during the year ending September 30, 1886, 19 passengers were killed and 52 injured *from causes beyond their own control*, during the last year but 2 were killed and 35 injured from such causes. By their own misconduct or want of caution, however, 16 were killed and 50 injured in 1887, as against 9 killed and 31 injured in 1886. The same is true with regard to employees: 9 were killed and 72 injured from causes beyond their own control in 1887, as against 25 killed and 149 injured in 1886. The increase in the total number of people killed in 1887, as compared with 1886, is due to the fact that 102 employees were killed while walking or being on track in 1887, as against 51 killed the same way in 1886.

From an inspection of the table substantially the same conclusions are to be drawn as have been drawn heretofore from an inspection of the tables for 1885 and 1884; they are so important that the Board again calls attention to them at the risk of seeming to repeat its expressions of previous years.

The principal cause of death and injury to passengers was getting on or off trains in motion — 7 out of a total of 22 killed, and 31 out of a total of 91 injured. This was the fourth cause leading to death to employees, having caused 9 deaths and 28 injuries. Greater care should be observed by both passengers and employees in regard to this matter.

The most serious cause of death to employees, as in 1886, was walking or being on the track, a danger incident to their occupation, and probably not preventable in any way. It resulted in 102 deaths and 88 injuries, as against 51 deaths and 59 injuries in 1886. The next cause of death and injury was falling from trains, engines or cars, resulting in 37 deaths and 99 injuries in 1887, as against 30 deaths and 93 injuries in 1886. In addition to the employees thus killed, there were 3 "others" killed and 9 injured, being trespassers engaged in stealing rides. The Board, in its last three annual reports, has called attention to the great danger that trainmen are subject to in setting the brakes on the roofs of freight cars, particularly in frosty weather when the running boards are slippery, and a brakeman is liable to be thrown to the ground by any sudden jerk, or stoppage, or curve in the track. It has recommended to railroads the adoption of a low railing around the roofs

of the cars to prevent this. The recommendation, however, has been disregarded by the railroads heretofore, and this year the Board submits to the Legislature a draft of a bill to compel the adoption of such railings, to which your attention is especially directed. Should a continuous air-brake be adopted by railroads generally, it will do much to diminish this cause of mortality to employees.

The cause leading to the third greatest number of deaths, and to injuries equal in number to all other causes, was coupling or uncoupling cars. This resulted in 20 deaths, and 437 injuries, as against 23 deaths and 365 injuries in 1886. It is to be hoped that the general adoption of the automatic coupler hereafter alluded to will, before long, materially diminish this serious cause of death and injury.

The most serious cause of death to "others" not employees or passengers, was walking or being on the track, having caused the death of 233, and injury of 124, as against the death of 247 and injury to 111 in 1886. The Board can only repeat its language in the previous three annual reports on this subject, to wit:

The sufferers, generally, almost invariably, were trespassers, frequently suicides. The law forbids walking or being on the tracks of railroads, and makes it a misdemeanor punishable with fine; but it seems practically impossible to enforce it in this country, particularly away from the cities. In the yards and depot grounds railroads make an effort to expel trespassers, but they meet with little encouragement from the civil authorities. This is particularly true with regard to children and beggars picking up coal and cinders.

In view of the terrible loss of life incident to its violation, the law should certainly be enforced with more vigor.

The next cause of death to "others" was being run over at highway crossings. This resulted in the death of 42 and injury to 57, as against the death of 28 and injury to 43 in 1886. Of the killed, 12 were at crossings protected with gates or flagmen, and 9 injured at such crossings. The Board again repeats its language in the Fourth Annual Report upon this subject:

Were it the law that as a rule railroads should pass over or under highways, and should only be permitted to cross at grades by a special order of court, these constantly recurring casualties would be greatly reduced, if not entirely done away with. The Board has recommended to three successive Legislatures an amendment of the present law requiring newly constructed railroads to observe such a rule. The bill has failed in every case.

To compel existing railroads to reconstruct all their highway crossings would be impracticable at present, in consequence of the expense.

Another embarrassment results from the fact that highway commissioners are constantly opening new highways across railroads at grade. This they have the power to

do under the present law. The board is of the opinion that this law should be amended by inserting a provision that no new highway should be opened at grade across a railroad track except by order of court.

This subject is further discussed hereinafter under the head of legislation, to which your attention is directed.

While a great improvement has been accomplished within the last four or five years in the maintenance and construction of railroads, in the adoption of uniform rules and signals, in the improvement in the construction of bridges, much yet remains to be done to still further diminish the dangers of railroad travel. To this subject the Board gives its most careful consideration. Your attention is drawn to the investigations of accidents and accident inquiries, on pages 101, 108 of the Appendix, as showing to some extent at least what the Board is doing in this direction.

#### HEATING CARS.

An act was passed by the last Legislature, being chapter 616 of the Laws of 1887, providing that,

It shall not be lawful for any steam railroad doing business in this State, after the first day of May, 1888, to heat its passenger cars, on other than mixed trains, by any stove or furnace kept inside the car or suspended therefrom, except it may be lawful, in case of accident or other emergency, to temporarily use such stove or furnace with necessary fuel. Provided that in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained, to be used only when the car is standing still, And provided also that this act shall not apply to railroads less than fifty miles in length nor to the use of stoves of a pattern and kind to be approved by the Railroad Commissioners for cooking purposes in dining-room cars.

This act was passed in deference to a public opinion aroused by the frequency of cars catching fire in collisions and aggravating the horrors of such accidents by burning passengers before they could be extricated from the wreck. It practically compels the adoption of some form of steam heating from the locomotive. A very considerable number of railroad companies within the United States have already adopted such system, and within this State its practicability seems to be in process of demonstration. The Board is not yet prepared to say which of the various methods is the best, as practical experience through several winters can alone determine it. An effort is being made by the different railroad companies to agree upon a uniform coupling, without which great embarrassment and confusion will result. It is to be hoped that this effort will be suc-

cessful. It is also earnestly urged by the Board that in the adoption of the steam heating, provision be made for proper ventilation. A number of the systems do make such provisions, and there is every reason why railroad companies should adopt it. As has been frequently pointed out by the Board heretofore, proper ventilation can be secured by introducing fresh air from the outside through a hood, passing it through a screen where it is cleansed, and thence over the coils of pipes at the end of the car into flues or boxes surrounding the pipes which pass through the car in the angles between the floor and the sides, registers being provided at proper intervals to permit the egress of this fresh warm air into the car. The Board is at a loss to understand the indisposition of railroad authorities to thus provide for proper ventilation. There is no subject more important next to safety. It is only necessary to ride on a car properly ventilated according to this method, as for instance, a Mann Boudoir car, to be impressed with the great benefits to the traveling community which the adoption of this system would insure. Among the first acts of the Board was to issue a circular calling attention to the necessity of improved ventilation, and suggesting the best method to secure it. At the same time a recommendation was made to have thermometers placed in railroad cars, and recommending railroad authorities to instruct those charged with maintaining the temperature of the cars to keep the thermometers as near as possible to the point of 70°. So far from the railroad companies conforming to this most reasonable recommendation, a prominent sleeping and drawing-room car company signaled its publication by removing from their cars the thermometers which they had already had there.

There are systems of heating cars by stoves surrounded with coverings so strong as to resist fracture in almost any conceivable case, with provisions to extinguish the flames in case of accident, which possess certain obvious advantages over a continuous system of heating, but it is hardly worth while to discuss those so long as the present statute requires continuous heating from the locomotives.

#### PHYSICAL CONDITION OF RAILROADS.

The Board is pleased to report that the physical condition of railroads throughout the State continues to improve. The system of inspections inaugurated by the Board has been attended with most beneficial results to the community and to the railroads themselves.

Your attention is directed to the inspection reports which will be found upon page 148 of the Appendix.

The Board had expected to make a supplemental report to the last Legislature containing the calculations of the strain sheets of the bridges within the State—a most important work. It was unable, however, to complete it in time, but trusts that by the middle of February of this year it will be enabled to transmit it. It will not repeat again the explanation of this work, but refers to the last annual report on page xv for an explanation of its character.

#### UNIFORMITY OF RULES AND SIGNALS.

A great advance has been made within the last two years in all directions of railroad management in the matter of uniformity of rules, signals and management generally. A uniform code of rules for the running of trains has been issued by the time convention, and adopted by a large number of railroads. This is a most important matter, as it enables every railroad superintendent to derive the benefit of the best experience upon this subject instead of relying upon his own individual experience.

#### AUTOMATIC CAR COUPLERS.

A happy solution, it is to be hoped, of this subject is also in sight. As has been frequently pointed out by this Board, the only determination of this question which would lead to any improvement of the present condition was the adoption of a uniform coupler, or at all events, of a uniform type of couplers by all the railroads of the country. Pretty nearly all the States have passed laws requiring the adoption of an automatic coupler. Boards of railroad commissioners have been instructed to approve such as seem to them best. A great variety have thus received the sanction of law, but the fatal defect that they did not couple automatically with each other, or with the old link and pin, has defeated the object of the various acts. The Master Car Builders' Association had recommended a number for trial and adoption, but only within the last year has it finally determined upon a single type. This, however, has been accomplished. What is known as the "Janney type" has been recommended by that organization for adoption, and a large number of railroads have already agreed to place it upon their cars. The Janney type of coupler is what is known as a "vertical plane coupler." In general terms, it consists of a movable knuckle, which opens and permits another similar



knuckle to go behind it, when they both close and are locked by a bar or arm or some such device. There are a considerable number of couplers of this type. The Janney was adopted many years ago by the Pennsylvania railroad and its affiliated lines, and it is principally through the insistence of this road that the Janney type has been generally accepted as the best form for freight cars. Previous to the brake tests at Burlington, Iowa, a year ago last spring, it was generally supposed that slack in a railroad freight train was absolutely necessary to start it, and that, therefore, the link and pin connection, which would give such slack, was indispensable. Experiments at that time, however, demonstrated the very important fact that the slack in the springs of the drawhead was all that was necessary to start a train, that consequently the close connection made by the Janney type of coupler was no objection, but a very decided advantage. This close connection prevents the jerks and jars so frequent upon freight trains, and which lead to the snapping of the pins and links and the accidents incident thereto. The adoption, therefore, of this type it is to be hoped, is not only a great advance in the way of prevention of loss of life and injury to person, but is probably also an improvement in the method of coupling trains. A movement is now on foot to require patentees of other vertical plane couplers to so construct their couplers that they will couple with each other. The danger to be apprehended, and a very serious one, is that the knuckle and its attachments to the drawhead will not be strong enough to stand the concussions incident to long service. Experiments lately conducted by Captain Michaelis, under the auspices of a committee representing a large number of railroads, go to show that the vertical plane couplers, as at present constructed, become disabled and are broken under such concussions as he subjected them to by a falling weight. The experiments were assimilated as nearly as possible to the blows that the drawheads would receive in practical service. It would certainly be well to make them stronger than at present constructed. A few years of practical experience will be the best test, however, of their durability.

#### FREIGHT TRAIN BRAKES.

The matter of freight train brakes has also been receiving close attention from railroads, and it is probable that within a comparatively short period railroads will adopt some form of continuous brake, thus enabling them to operate trains with much greater safety, rapidity and economy.



## LEGISLATION.

The act creating the Commission makes it its specific duty to recommend to the Legislature such laws or amendments to the present laws, as the experience of the Commission may show to be necessary or expedient for the benefit of the public. This duty the Commission has conscientiously performed, but with most discouraging results. During the five years of its existence it has again and again drawn the attention of the Legislature to the defects in the law out of which scandals have grown and continue to exist. The Board refers to the last two annual reports on this subject at pages xx *et seq.* of the Fourth Annual Report, and to pages xxix *et seq.* of the Third Annual Report. It will again submit drafts of the bills which it has already submitted, but which have not yet been acted upon, in the hopes of a more favorable consideration than heretofore. It proceeds to briefly discuss the measures it proposes to recommend, in what it deems to be the order of their importance.

*First* — Amendments to the Commission Act.

The act creating the Board of Railroad Commissioners gives ample power to that body to obtain all the facts in cases of complaints, accidents or other investigations. If the Board finds a grievance to exist, however, it only possesses the power to recommend its redress. Should the railroad corporation or the persons in fault, fail to conform to such recommendation, the law provides that the Board "may forthwith present the facts in the case to the Attorney-General for his consideration and action;" the previous section providing also that the Attorney-General "shall take such proceedings thereon as may be necessary for the protection of public interests." The vagueness of this language left it in doubt as to whether the recommendations of the Board, however just and reasonable in the opinion of the Attorney-General, could be enforced by any process of law. This doubt was finally settled in the negative by the decision of the Court of Appeals in the matter of the *People v. The N. Y., Lake Erie & Western R. R. Co.* In that case, briefly, the Erie railroad declined to conform to the recommendation of the Board to erect a depot at Hamburg upon the line of its road. It substantially admitted that the then existing station was inadequate to the requirements of the public, but gave no reason for its failure to conform except that "its directors decided that the interest of the defendant required it to postpone

for the present the erection or enlargement of the station-house or depot at the village of Hamburgh." The Attorney-General brought an action for *mandamus* requiring the railroad to construct such depot, which was granted by the Supreme Court at Special Term. Upon appeal to the General Term, the order, after careful consideration, was affirmed; the railroad then appealed to the Court of Appeals. The latter body reversed the decisions of the Special and General Terms upon the ground that there was no statutory authority compelling the railroad to erect such depot, but that it was only permissive. The court, however, calls attention in very remarkable language for that body, to the defect in the law with regard to the enforcement of the recommendations of the Railroad Commission. It says:

"In regard to the facts there is no dispute. A plainer case could hardly be presented of a deliberate and intentional disregard of the public interest and the accommodation of the public." Further on it says: "The Commissioners have heard and decided. They can do no more. After so much preliminary action by a body wisely organized to exercise useful and beneficial functions, it might well be thought unfortunate that some additional machinery had not been provided to carry into effect their decision. By creating, the statute recognizes the necessity for such a tribunal to adjust conflicting interests and controversies between the people and the corporation. It has clothed it with judicial powers to hear and determine, upon notice, questions arising between these parties, but it goes no further. Its proceedings and determinations, however characterized, amount to nothing more than an inquest for information. We find no law by which a court can carry into effect the decision. At this point the law fails, not only by its incompleteness and omission to furnish a remedy, but by its express provision that no request or advice of the Board, nor any investigation or report made by it, shall have the effect to impair the legal rights of any railroad corporation."

Again, the Hon. D. O'Brien, Attorney-General, in a communication to the Board, dated February 11, 1885, uses the following language:

"It seems to me that so important a statute, affecting great public interests and designed to be remedial in its purpose, ought to be so amended that no doubt could exist as to its intent and true interpretation. This could be accomplished by adding to these sections a provision to the effect that it should be the duty of railroad companies to comply with the decisions and recommendations of the Commissioners, and that obedience thereto might be enforced by *mandamus* or other appropriate legal proceedings.

"The present statute also fails to declare what effect shall be given to the decisions of the Board as evidence.

"Power is conferred upon the Commissioners to cause witnesses to be subpoenaed and examined, and proofs taken, and their proceedings partake of all the qualities of a judicial inquiry, and yet their decisions are not admissible in any other tribunal as evidence of the truth of the facts found by them. As the railroad company is always given an opportunity to be heard, and to be represented by counsel, and to cross-examine the witnesses of the complainant and introduce testimony in its own behalf, no injustice would be done if the law should be so amended as to declare that in any proceeding instituted by the Attorney-General to enforce the decisions of the Railroad

Commissioners, their findings should be *prima facie* evidence of the facts found by them. Much delay and expense in the practical enforcement of the law would in this way be avoided."

At the time of creating the Commission, grave doubts were felt in the minds of those friendly to the measure as to the propriety of investing the Board with power to compel obedience to its recommendations, and wisely so. It was an experiment, and it was the part of prudence to go slowly and cautiously. It was thought that abuses would be remedied by ventilation; that no railroad corporation would dare to disregard the recommendation of the Board after a public investigation, but that an intelligent public opinion would compel conformity thereto. To a very considerable extent this has been the case with regard to grievances that were generally felt by the public, and upon which an intelligent public opinion could be directed, but there are a great many grievances of individuals or obscure communities with regard to which no public opinion or sentiment can be aroused of sufficient force to have any effect whatever upon a corporation, and it is to redress such as these particularly that an amendment to the law is sought.

It will be seen from the above opinions of the Court of Appeals and of the Attorney-General—opinions which certainly should carry with them great weight—that the time has come when the law should be amended to the extent to compel the decisions of the Board to be carried into effect, care being taken to so guard the law as to prevent the possibility of arbitrary or unjust action. The Board deems that the amendments presented herewith, drafted in accordance with the suggestion of the Attorney-General, to the effect that the Supreme Court may issue a *mandamus* subject to review by the Supreme Court in General Term, and to appeal to the Court of Appeals, can work no hardship whatever upon a corporation, but will enable the community to derive the benefit which it is entitled to from the existence of the Board. Power being lodged with the Supreme Court to issue the *mandamus* to compel obedience, or decline to do so, at its discretion, it would certainly seem that the interests of corporations were sufficiently guarded to prevent the apprehension of any injustice being done.

*Second*—An act to amend section twenty-four of the General Act, with regard to grade crossings.

This proposed act has two objects in view:

1. To prevent railroads hereafter constructed from crossing highways at grade.

The object of the bill can be best understood by quoting its language, which is as follows :

"§ 24. Whenever a railroad hereafter constructed or extended in this State shall cross a railroad, street, highway, turnpike or plank road, such railroad shall be carried either over or under the same. The railroad so crossing a street, highway, turnpike or plank road shall build and maintain such bridges, abutments and approaches as shall make the same convenient and suitable for the travel upon the way. In no case shall less head room than twenty feet above the top of the rail be provided unless approved by the Board of Railroad Commissioners. Crossings at the same level over railroads, streets, highways, turnpikes or plank roads or crossings different from the foregoing requirements, shall not be constructed without the order of the Supreme Court or County Court, based upon compliance with such conditions as, in its judgment, public safety and convenience shall require. Either party may appeal to the General Term of the Supreme Court from an order so made as provided in section eighteen of this act." \* \* \* \* \*

The object of this section is to reverse the rule at present existing, which is, that newly constructed railroads may cross all intersected highways and streets *at grade*, the exception being to pass *over or under grade*. Should this amendment pass, the rule will be to pass over or under, the exception being a grade crossing, and that to be permitted only by order of the Supreme Court.

The second amendment is in the following language :

"Whenever a street or highway and a railroad cross each other, either the city or highway authorities or the railroad may apply to the Supreme Court, upon petition and upon ten days' notice to the other, for any alterations in the crossing, or in the approaches thereto, or in the location of the highway or street, or for a bridge or under crossing thereat.

"The court shall appoint three disinterested and competent commissioners to hear the proofs and allegations of the parties, to inspect the location, and to determine what, if any, alterations shall be made, which party shall carry the decision into effect; which party shall pay the expense of making such alterations, and all future charges for keeping such crossing and the approaches in repair as well as the costs of the proceedings; or such commissioners may apportion all such expenses and costs between the city, town, village and the railroad corporation. The court shall fix the time and place of the first meeting of the commission. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the constitution. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties interested, or their agent or attorney.

"The said commissioners shall make a report of their proceedings to the Supreme Court, in writing, together with the minutes of the testimony and exhibits taken and received, and shall be paid ten dollars and their expenses for each day actually spent in the performance of their duties.

"On such report being made, either party may move for the confirmation of such

report, and upon confirmation thereof the court shall have power to enforce compliance therewith and with its orders in regard thereto. Either party may appeal to the General Term of the Supreme Court, as provided in section eighteen of this act.

"The party by whom the award as confirmed is carried out may recover the proportion or amount to be paid by any other party from such party, and if a party unreasonably neglects or refuses to carry out the award as confirmed, any other party affected thereby may proceed to do so, and may recover from the other parties to the proceedings their respective shares or proportions, and from the party so refusing all costs and damages occasioned by such neglect or refusal.

"Additional lands needed for the purposes of any such alterations may be taken and purchased. Unless the land so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate and duly made to the owners and persons interested in said lands. The same, when so taken, shall become part of such crossing, street or highway, in such manner and by such tenure as the adjacent parts of the same street or highway may be held for street or highway purposes."

It will be seen that the object of this amendment is to provide a method of redress for the intolerable grievances now existing at many grade crossings in this State. Complaints upon this subject transcend all others in number and extent. In many cities and towns railroads have been given permission to occupy streets crossing other streets at grade. At the time of such occupancy business was comparatively light, and the obstruction to travel across the streets was not very great, but as business has increased, the number of tracks has increased from one, perhaps, to twelve, as in cases at Buffalo, and the obstruction to crossings has been well nigh complete. A statute passed at the recommendation of the Board, viz.: chapter 439 of the Laws of 1884, provides that "the Supreme Court or County Court may, upon the application of the local authorities, order that a flagman be stationed at such point, or that gates shall be constructed across such street, highway, turnpike or plankroad." This law, however, fails to meet the requirements of many places where gates and flagmen are totally inadequate for the protection of the public. The proposed amendment provides that the commissioners appointed by the Supreme Court shall have full power to determine the best method of relief, either by depressing the street under the crossings, by elevating the tracks over the crossings, by building a bridge over the tracks, or whatever method may be most expedient, it also provides for the just and equitable apportionment of the expense between the railroad authorities and the municipal corporation, and also for proper indemnity to abutting property holders for injuries to their property by reason of such crossing.

A conspicuous illustration of the necessity of such law is the condition of Buffalo to-day. In that city the southwest portion of the town is substantially cut off from the north and northeast by the great number of tracks passing through the streets. A petition from the common council for an investigation and redress of the grievances, and also from numerous commercial bodies, was lodged with this Board. A careful examination was made, hearings were had and plans for the redress of grievances prepared by the inspector of the Board and a final recommendation issued. Your attention is particularly directed to this matter, which will be found upon page 134 of the Appendix. The railroads have given as yet no intimation as to their intention to conform to or disregard the recommendation of the Board.

*Third.*—An act to compel street surface railroad companies to replace the "center-bearing" rail with a rail of better construction.

An act to this effect was introduced into the Legislature last winter and referred to this Board for an opinion thereon. An investigation and hearing was had, parties in interest consulted, and as the outcome an act was recommended to the Legislature, the first first two sections of which are as follows :

"SECTION 1. No street surface railroad shall hereafter lay down in the streets of any incorporated city or village of this State, what are known as 'center-bearing' rails.

"§ 2. From and after June 1, 1887, all street surface railroads owned or operated in any incorporated city or village of the State, shall annually remove from their respective road or roads in said streets, twenty per cent of all 'center-bearing' rails and substitute in place thereof the 'tram' or some other kind of rail, not the center-bearing rail. Said 'tram' or other rail to be in all cases approved by the local authorities, and said rail to be of such shape and be so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange of the car wheel."

Section three provides whose duty it shall be to enforce the provisions of the act, etc. A report upon this subject, made to the last Legislature, will be found on page 28 of the Appendix, to which your attention is urgently called. It is a most important measure. The annoyance that the public are suffering from this objectionable form of rail is too well known to need further elaboration here. The rail never should have been permitted to be laid in the streets, and it is no injustice upon corporations to compel the substitution of a better rail at the rate of twenty per cent per annum. This center-bearing rail is so constructed that a groove soon forms on both sides of it between the paving stones and the rail, making an



obstruction so high that even trucks cannot turn in or out without danger of wrenching off a wheel, to say nothing of carriages and vehicles of a lighter build. At the hearing upon this subject, the counsel for the corporations admitted, with the most amazing frankness, that the railroad companies had deliberately chosen this form of center-bearing rail in order to prevent carts or vehicles driving on the track, and the mayor of the city of New York, in a communication addressed to the former Chairman of this Board, admitted that, in his private capacity as a manufacturer, he had invented this rail with that object in view, but stated that in his public capacity, as the mayor of the city of New York, he recognized the abuses of it, and strongly recommended the substitution of some other form of rail.

*Fourth*—An act to amend chapter 218 of the Laws of 1839, known as the "Leasing Act."

Under the operation of this act, as it now exists, one railroad corporation can lease the road and equipment of another for an indefinite number of years without the consent or approval of the stockholders of either line. This has led, in the past, to the gravest scandals and outrages upon stockholders. An unscrupulous majority of a board of directors of a prosperous railroad have been enabled to acquire the stock and bonds of an intersecting unprofitable railroad for a mere song, a few cents on the dollar for the stock, and perhaps fifty cents on the dollar for the bonds, and have then been enabled to lease in perpetuity the unprofitable road, upon the ground that it is a "feeder" to the road of which they have been the trustees and managers, guaranteeing a dividend on the stock of the unprofitable road and the interest on the bonds, which funds have come out of the earnings of the profitable railroad to the great detriment of the stockholders thereof. This has been done to an extent of which the public at large have no idea, and has been, both in this State and elsewhere, the means of acquiring these colossal fortunes at the expense of other people's rights, which it is high time should be put a stop to. The "Consolidation Act," being chapter 917 of the Laws of 1869, prohibits the consolidation of two railroads without the approval of the stockholders, but the law is a dead letter so long as the "Leasing Act" of 1839 remains unamended. A provision exists in the "Consolidation Act" that no railroads which run on parallel or competing lines shall be authorized by that act to merge or consolidate. This provision is also inserted in the proposed amendments to the "Leasing Act."

*Fifth*—An act to regulate the construction of railroads.

This act has been submitted to the three preceding Legislatures without favorable action, however. It is intended to prevent the unwise duplication of railroads, and provides that a corporation for this purpose cannot come into existence until a hearing shall have been had before the Board of Railroad Commissioners, and until they shall have decided that public convenience and necessity require the construction of said railroad. An appeal from the decision of the Board, however, is provided for to the Supreme Court, which body is vested with power under the act to reverse the decision of the Board should it be against permission to build the road.

The theory of this act is expressed briefly in the remarks of the Board in its Second Annual Report on page viii, where it says: "A railroad cannot be built without the State delegating to its promoters the highest power it possesses over property—the right of eminent domain, the right to take private property for public uses. The State itself never exercises this sovereign power except in cases of public necessity. Why should it thus delegate it to any thirteen men to be exercised for mere private gain, frequently at the expense of vested rights and grave public interests." The Board will not discuss this subject again, as it has already elaborately gone into it, but refers to page xi of the Report for 1885, and to page xxix of the same Report.

*Sixth*—In 1885 the Board recommended the passage of an act to prevent discrimination by railroads against shippers by canal. A statement of the reasons of the Board for favoring this act will be found in the Second Annual Report, at pages 85, 107, 120, etc. This act is urgently pressed by a large number of citizens interested in transportation by canal, but who protest against their use of the canals subjecting them to punishment by the railroads in the form of higher rates by rail. The Board will not discuss the subject again, but refers to its previous discussions upon the subject as showing its views, and the necessity for remedial legislation.

*Seventh*—An act to amend the General Railroad Act, in the matter of quarterly reports.

The object of this act is to impose a penalty upon railroad corporations for failure to make their quarterly reports to the Board within the time prescribed by the Board for filing such reports. A penalty exists at present under the law for failure to make the annual report, but no such penalty exists with regard to the quar-



terly reports. Provision is made for the Railroad Commissioners to extend the time limited for cause shown. There can be no reason why this bill should not become a law. The Board is continually embarrassed by the failure of railroad corporations to make such reports. They are sometimes withheld for stock-jobbing purposes, to the detriment of innocent stockholders and in the interest of unscrupulous persons. The bill should become a law.

*Eighth* — An act to establish the responsibility of railroad corporations for damages by fire communicated from their locomotive engines.

This bill has been recommended to previous Legislatures, and is again recommended to the consideration of your honorable body. The reasons are given in full on page XLI of the report for 1885, and will, therefore, not be repeated here. A similar act has been tested for forty-five years in Massachusetts, and it is there found that the liability imposed upon railroad corporations is not unduly onerous. It serves to make them more careful in maintaining the screens in their smoke-stacks in proper order and taking other precautions to prevent conflagrations. It is particularly necessary for the preservation of the forests of the State in the Adirondack country, and also in the more thinly populated districts of Long Island.

*Ninth* — The bill recommended by the Board to the last Legislature, to regulate the transportation of explosives, is not submitted again for the reason that a portion of the proposed act was embraced in an amendment to the Penal Code, being chapter 689 of the Laws of 1887, which will probably serve the purpose intended to be reached by the Board.

*Tenth* — An act amending chapter 439 of the Laws of 1884, being an act for the better protection of life and property upon the railroads of the State.

This amendment proposes to add another section to the law, providing that railroads shall construct a low railing around the roofs of their freight cars to prevent brakemen slipping off therefrom. The Board has frequently called attention to this danger in the following words:

"There is probably no more dangerous occupation than that of a brakeman on a freight train, who is obliged to run from car to car setting brakes, particularly in frosty weather when he is liable to slip at any moment, either through a curve in the track or sudden stop. It suggests the propriety of recommending a low railing or iron

pipe about eighteen inches high, to be put on every freight car, which a brakeman could seize if falling, and probably save his life in many cases. It would be very inexpensive and the Board fails to see any reason why it would not be entirely practicable."

In the year ending September 30, 1886, there were thirty employees killed and ninety-three injured, and in the year ending September 30, 1887, thirty-seven killed and ninety-nine injured by falling from trains, engines or cars, principally from the roofs of freight cars. This mortality and injury to persons ought to be stopped. There has been no reason shown why this railing should not be constructed and the Board submits an amendment with that purpose in view. It quite understands the embarrassment that railroads would be subjected to did the act prohibit all box cars from coming into the State that were not provided with such a railing. The most it appears to the Board, therefore, that it can do is to recommend that all box freight cars hereafter built, purchased or repaired for use and operation in this State, shall be equipped with such a railing. This will be, at all events, if enacted, a step in the right direction and may lead other States, or the railroad corporations themselves, voluntarily, to adopt this reasonable measure of protection for the life and limb of their employees.

*Eleventh*—The amendments to section 28 of the General Act submitted by the Board to the last Legislature became a law. The principal amendment provided that a railroad corporation should not issue bonds secured by a mortgage upon the road, without the issue thereof having been sanctioned by a majority in amount of their stockholders at a meeting called for that purpose. The other amendments were proposed in contemplation of the passage of the bill amending section 24, to bring the whole act in conformity with such amendments, viz.: with regard to crossing streets and highways at grade. The Board deems it fortunate that the bill was passed as it prevents any incompleteness in the law should the bill amending section 24 be passed this year.

WM. E. ROGERS,  
ISAAC V. BAKER, JR.,  
MICHAEL RICKARD,  
*Commissioners.*

Attest:

WILLIAM C. HUDSON,  
*Secretary.*

## APPENDIX.

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### Decisions and recommendations:

Executive and legislative references.

Complaints of cities, towns, associations, individuals, etc.

✓ Increase of capital stock and issue of bonds.

Accidents.

Accident inquiries.

Crossings at grade.

Length of railroads.

Inspections.

Minutes of the Board.

New companies formed in 1887.

Companies reorganized in 1887.

Companies consolidated in 1887.

Extension of routes during 1887.

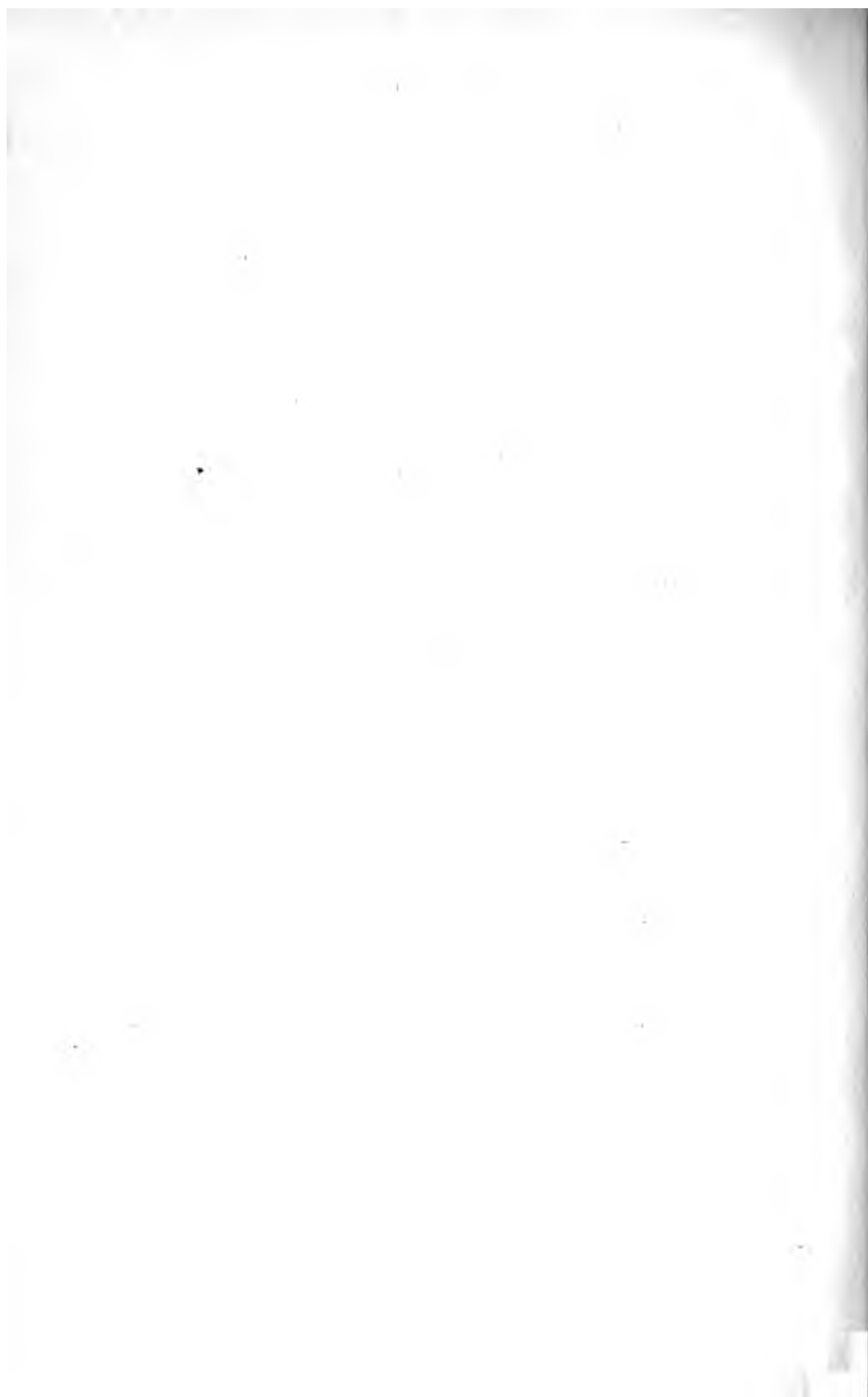
Enactments of the year 1887.

Alphabetical list of all companies formed under laws of this State.

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General Railroad Law, and all laws (classified) relating to the railroads  
of this State.

Inter-State Commerce Law.



# DECISIONS AND RECOMMENDATIONS.

## EXECUTIVE AND LEGISLATIVE REFERENCES.

### I

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE ASSEMBLY BILL ENTITLED "AN ACT TO AMEND CHAPTER 156 OF THE LAWS OF 1879, ENTITLED 'AN ACT TO AUTHORIZE THE CONSOLIDATION OF THE JAMAICA, WOODHAVEN AND BROOKLYN RAILROAD COMPANY WITH THE JAMAICA AND BROOKLYN PLANKROAD COMPANY,'" REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

### STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, February 2, 1887. }

*To the Honorable the Railroad Committee of the Assembly:*

The Board herewith respectfully returns "An act to amend chapter 156 of the Laws of 1879, entitled 'An act to authorize the consolidation of the Jamaica, Woodhaven and Brooklyn Railroad Company with the Jamaica and Brooklyn Plankroad Company.'"

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of chapter one hundred and fifty-six of the Laws of eighteen hundred and seventy-nine, entitled "An act to authorize the consolidation of the Jamaica, Woodhaven and Brooklyn Railroad Company with the Jamaica and Brooklyn Plankroad Company," is heroby amended so as to read as follows:

Section 1. The Jamaica, Woodhaven and Brooklyn Railroad Company shall have the power to consolidate with the Jamaica and Brooklyn Plankroad Company on such terms as shall be agreed upon and approved by not less than sixty per centum of the stock of each of said companies, and after such consolidation is made shall be known as the Jamaica and Brooklyn Road Company, and under that name shall enjoy all the powers and privileges of both companies until the expiration of the charter of the railroad company. But nothing in this act contained shall be construed to permit the use of steam upon said road.

§ 2. Section two of said act is hereby amended so as to read as follows:

§ 2. The said companies after such consolidation is made shall possess and enjoy all the general powers and privileges now provided by law saving and excepting where the same are contrary to the provisions of this act, but nothing in this act shall be construed to exempt the property of said consolidated company from taxation.

§ 3. This act shall take effect immediately.

The amendment consists in adding to section 2 the words "but nothing in this act contained shall be construed to exempt the property of said consolidated company from taxation."

Section 4, chapter 87 of the Laws of 1854, reads as follows:

"Toll-houses and other fixtures and all property belonging to any plank or turnpike road company, shall be exempt from assessment or taxation for any purpose whatever; but no company shall be exempted whose net annual income, over and above all expenses of repairs and collection of tolls, is equal to five per cent on the original cost of the road."

Section 2 of chapter 156 of the Laws of 1879 preserved to the companies consolidated the general powers and privileges of such companies before consolidation. The property, therefore, of the Jamaica and Brooklyn Plankroad Company that went into the consolidation preserved its right to be exempt from taxation under the provisions of chapter 87 of the Laws of 1854.

On December 29, 1879, articles of consolidation in pursuance of the act of 1879, were duly filed with the Secretary of State, and the consolidation was thus perfected. This road is still kept up and maintained as a turnpike by the company, and tolls are taken thereon. A street railroad track has been laid along it suitable for horse cars and for heavy trucking. Exemption from taxation is a right conferred upon all plank and turnpike road companies.

There seems to be no good reason why this particular company should be singled out for special legislation subjecting it to taxation. So long as it continues to be the policy of the State to exempt such companies generally from taxation, special legislation striking particular companies ought not to be enacted unless for very clear and satisfactory reasons. There appears to be no sufficient reason for such legislation in this case.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## II.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE ASSEMBLY BILL ENTITLED "AN ACT TO PROVIDE FOR THE SECURITY OF PASSENGERS AND EMPLOYEES UPON THE ELEVATED RAILROADS IN THIS STATE," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

### STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, February 24, 1887. }

*To the Honorable the Railroad Committee of the Assembly:*

The Board herewith respectfully returns an act entitled "An act to provide for the security of passengers and employees upon the elevated railroads in this State."

The design of this act is to require such elevated railroads to erect and maintain an iron railing or guard, at least four feet high, on the car side of the platforms at every station, which railing or guard may be raised or folded to allow the ingress and egress of passengers when

the train stops at said station, but at all other times said guard or railing shall be kept closed; no train to be permitted to start until said guard or railing shall be closed. The proposed act provides penalties for failure to comply with its provisions, and also that no person who may be injured or killed through a violation of or failure to comply with the provisions of the act shall be deemed guilty of contributory negligence in any action to be brought.

Upon February 23 the Board gave a public hearing upon this bill at its office in Albany, notice of which had, prior thereto, been duly published and given to all persons interested.

The passage of the bill was advocated by Hon. T. D. Sullivan, its introducer, and J. R. Brown, Esq., and was opposed on behalf of the elevated railroads by Julien T. Davies, Jr., Esq.

The proposed railing or guard would, in the judgment of the Board, add nothing to the security of passengers and employees upon the elevated railroads. As at present operated the cars are so constructed with gates as to prevent passengers from leaving or entering a train when in motion. At certain hours of the day the platforms are very much crowded with passengers, and all the room upon them is needed for their accommodation.

Such a guard or railing as is proposed would, in the judgment of the Board, add an element of danger upon said platforms, and would tend to prevent the easy and rapid ingress and egress of passengers to and from the trains.

The Board deems it to be the duty of the elevated railroads to employ at crowded stations sufficient police force to prevent people from being crowded and injured by falling off the platforms.

For these reasons the Board deems the passage of the proposed act unadvisable.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

### III.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE ASSEMBLY BILL ENTITLED "AN ACT TO PROVIDE AGAINST ACCIDENTS OR DAMAGE TO CITIZENS ON THE VARIOUS STRUCTURES OF THE ELEVATED RAILROADS IN THE CITY OF NEW YORK," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

#### STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, February 24, 1887. }

*To the Honorable the Railroad Committee of the Assembly:*

The Board herewith respectfully returns an act entitled "An act to provide against accidents or damage to citizens on the various structures of the elevated railroads in the city of New York."

This act proposes to make it the duty of all elevated railroad companies in the city of New York to place or fasten immediately underneath the structure upon which the tracks are laid, drip-pans, so as to catch the dripping of water, grease, ashes, cinders and other articles

upon people passing underneath the same. It provides a penalty for failure to comply with its provisions.

The subject of preventing the evils alluded to in this bill is one which has engaged the attention of the Commission. In pursuance of its suggestions drip-pans have been and are being placed at all points where trains stop at stations and at street crossings. Such system of drip-pans, when completed, will substantially do away with all of the evils complained of. The road has further been engaged recently in placing small drip-pans under those parts of the locomotives which are liable to drip grease or water. And it appears that the road, as is its duty, removes snow from its structures immediately after its fall and in such a way as to prevent the public traveling the street from being inconvenienced thereby.

The Board believes that any supposed advantages to be derived from this proposed system are largely counterbalanced by its obvious and inevitable inconveniences and injuries. The construction of drip-pans to the extent proposed in this bill would very seriously injure adjoining property owners and the public traveling the streets by reason of thereby cutting off light. This the Board regards as a sufficient reason why it ought not to favor the passage of this proposed act.

Petitions signed by the truckmen have been lodged with the Board in favor of the bill, and petitions against it numerous signed by abutting property owners.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

#### IV.

#### HEATING AND LIGHTING OF CARS—REPORT OF THE BOARD UNDER LEGISLATIVE RESOLUTIONS.

#### STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, *February 25, 1887.* }

#### MAJORITY REPORT.

*To the Legislature of the State of New York:*

The following resolutions were passed by the Senate and Assembly respectively on the 7th day of February, 1887:

*"Resolved (if the Assembly concur). That the Board of Railroad Commissioners be and the same are hereby requested to report with all convenient speed to this Legislature, whether there is any feasible method of heating and lighting the cars on passenger trains other than now generally in vogue, whereby in case of accident the loss of life from fire, now oftentimes so severe, can be avoided; and if so, what legislation, if any, is needed to secure the adoption of such improved methods of heating and lighting by the various railroad companies subject to the laws of this State; and also, that the said Board be requested at the same time to report any other and further measures or suggestions for practically increasing the security of life and limb in railroad travel, as may seem to it proper and desirable in the premises.*

*"Resolved. That the Railroad Commissioners be requested to report to the Assembly what legislation is necessary to compel the use of such methods of heating railroad cars as will insure safety from fire in case of accident."*



This Board has already, in its several Annual Reports to the Legislature, called attention to the defective methods of heating and ventilating cars, and had recommended improved methods for adoption by railroads.

In its Annual Report this year it uses the following language:

"The Board admits with regret that it has been greatly discouraged in its efforts to induce railroad authorities to adopt better methods of heating and ventilating passenger cars. The ignorance and indifference that prevails upon the subject are astonishing. The Board has repeatedly pointed out the desirability and practicability of better methods, but so far without avail.

"Ventilation affects not only the comfort but the health of every traveler, and in case of accident the methods of heating may become of supreme importance.

"Your attention is called to the remarks on this subject in the last Annual Report (p. xxiv), and to the report of the inspectors (p. 238 of the Appendix.)

"The recent disaster at Rio, on the Chicago, Milwaukee and St. Paul railroad, has again called public attention sharply to the method of heating cars. On that occasion the train ran off the track through a misplaced stub switch. A passenger coach was jammed between the cars in front and rear, caught fire from the stove, and seventeen persons were burned to death before they could be rescued, the heat being so intense.

"Except for the matter of expense there is probably no reason why the furnace should not be suspended under and outside the car, as is now done on some roads. Fresh air can be introduced by movement of the train, heated and thence transmitted through flues in the car, in the manner described in the report above quoted.

"The Board is of the opinion that this is a better method than any depending upon steam from the locomotive. The latter necessarily deprives the locomotive of needed power and affords no means of ventilation, besides it being very difficult to make the steam connections. The Board will continue its efforts to secure better methods of heating and ventilation, and trusts it will receive more cooperation from the railroads and the public."

Immediately upon receipt of the above resolution, however, notice of a public hearing was given to be held at the office of the Board on February 16, when suggestions for improved methods of heating and lighting would be received.

A vast amount of correspondence between inventors and railroad officials has been read and the suggestions noted. Among them may be found propositions to heat by friction, by chemical action, by the waste heat from the smoke-stack of the locomotive, or by a boiler from the tender or baggage car; propositions to prevent conflagrations by building the cars of iron or of wood painted with asbestos paint, and of supplying cars with fire-extinguishing hand grenades filled with carbonized water.

Propositions to heat by electricity have also been presented. This method, while promising, possibly, something of value, is in a rudimentary experimental state. It has not been perfected sufficiently to warrant the Board in making any recommendation with reference to it at present. The power to run the dynamo it is proposed to obtain from the car axles.

At the hearing the two principal plans presented for heating and those to which attention may be confined, were:

*First.* Heating by steam from the locomotive.

*Second.* Constructing the stove or furnace in each car of such strong material, or surrounding it in such a way as to resist fracture in case of collision or other disaster.

The first method, that of heating by steam from the locomotive, seems to be meeting with great popular favor at present.

There is no doubt that in certain kinds of trains it is feasible; such as on elevated roads, belt lines, and on through trains where additional cars are not attached while making the trip, and where trains are not very long. Careful recent experiments seem to show that the loss of power to the locomotive is insignificant, being probably within one per cent of the power necessary to draw the train.

The problem of storing the heat for considerable time after the steam has been turned off also seems to have been solved by the method in vogue on the elevated roads and Staten Island Rapid Transit and elsewhere.

Some of the objections to the system, however, are as follows:

*First.* At terminals where trains are made up additional plant would be needed to warm the cars before attaching the locomotive, and very considerable additional space, which in many places it is impossible to obtain.

*Second.* At connecting points between branch and main lines where cars are left standing to be picked up, it would involve a locomotive or a special heating arrangement to be attached while waiting, thus creating much inconvenience and expense.

*Third.* Where trains are long the steam would tend to get cold and condense before reaching the rear cars, the effect would be to have the car nearest the locomotive very hot, the heat diminishing towards the end of the train, leaving the rear cars perhaps without any heat at all.

*Fourth.* It would require the same pattern of steam connections for all passenger cars. The same embarrassment is met here as there is with regard to legislation upon car couplers. While it may be within the police powers of the State to enact that no car shall run or come within the borders, unless equipped with a syecific form of steam connection, it is evident that unless the same form of connection is agreed upon by adjoining States and different railroads, cars might be precluded from crossing State borders, or running on intersecting railroads, with the gravest consequent inconvenience and confusion.

The feasibility of steam heating from the locomotive is now being experimented upon in good faith upon many railroads of this and other States. It is to be hoped that the survival of the fittest method will assert itself. Until these experiments shall have further solved the difficulties now presented with regard to it, however, the Board would not deem it expedient to recommend legislation positively enforcing its adoption.

The second method, namely, to construct the stove or furnace of sufficiently strong material to resist fracture in case of collision or other disaster, and to have the coal locked in so as to be impossible to get out in case of overturning, the Board deems well worthy of consideration. Models or descriptions of such stoves were presented to the Board.

The uncontradicted expressions of opinion of those competent to judge, both at the hearing and in technical journals, is to the effect that a stove or furnace can be built surrounded with a jacket of boiler iron or steel, strong enough to resist fracture under almost any conceivable circumstances. It is also highly probable that a strong wire netting surrounded with several thicknesses of wire gauze, or some other device, can be arranged that would prevent the scattering of live coals or spread of flames.

As stated in its Annual Report of this year, "there is probably no reason why the furnace should not be suspended under and outside the car, as is now done on some roads. Fresh air can be introduced by movement of the train, heated, and thence transmitted through flues in the car."

Were the furnace suspended in this manner in case of collision and telescoping, it would be broken off and probably do no further damage.

Indeed high railroad authority is of the opinion that the suspending the stove or furnace underneath and outside the car is an unnecessary precaution; that if the furnace be made strong enough it would be pushed through the car in case of collision, and under no circumstances would set it on fire.

The practical advantages of having each car provided with its own heating apparatus are so evident that the Board will not spend time in dwelling upon them.

Proper ventilation should also be provided for in connection with whatever system is adopted. This much-neglected matter the Board deems to be second in importance to safety only. It is satisfied that the only way of securing it is to warm the air as it comes into the car by having it pass through the furnace or around coils of steam pipes if steam from the locomotive be adopted, or around the hot-water pipes if that method continues, and thence transmitted through flues in the angle between the floor and sides.

This principle is observed upon the Pennsylvania railroad, and upon many cars running upon railroads in this State. It should be universally adopted and the serious injury to health and comfort incident to bad ventilation abolished.

The Board does not deem that it would be expedient to recommend the passage of a law providing the exact kind of stove, furnace or other heating apparatus that might be adopted. Improvements are being made daily. The State should not bind itself to any particular form, but should be prepared to take advantage, and allow railroads to take advantage, of every improvement as it develops itself.

There is no doubt but that the present dangerous fragile stove should be abolished. To provide *exactly* what should be substituted in its place, however, is another matter.

It would seem as if some discretion should be lodged with State officers. While this Board by no mean desires, indeed is loath to suggest such discretion for itself, perhaps it would be better if it were so lodged to a limited extent; such limited authority is provided in the act herewith transmitted. By providing that the authority is only to be exercised upon the application of railroads, the Board is protected from becoming the agent of patentees, and can only interfere when railroads seek such intervention. In such case the power of the Board will only be to relieve from the penalties of the act.

If steam heating from the locomotive shall turn out to be practicable, it will solve the problem so far as safety is concerned.

If, however, it shall appear on the whole that heating each car independently will best subserve the convenience as well as safety of the public, the Board deems that it would be wise to enact that after January 1, 1888, no passenger car shall be heated by a stove or heater

attached to the inside or outside of the car, which is not so constructed and guarded as to prevent the car from catching fire therefrom under any circumstances. Further than this the Board does not deem that it would be wise to go at present.

#### LIGHTING.

There were but two methods of improved lighting suggested at the hearing—that was by electricity and stored gas.

Mr. R. C. Blackall, of the Delaware and Hudson Canal Company, offered to the proposer, Mr. R. H. Smith of the Martin Anti-Fire Heating Company, a car with which to make the experiment of lighting with electricity. Until made, the Board can express no opinion as to its practicability.

There does not appear to be any trustworthy evidence that the present method in general use of lighting the cars with lamps in which mineral "sperm oil" so called, of 300 degrees test is used, is dangerous. The use of any oil of a less test ought to be forbidden. In case of collision or sudden shock, the lamps are almost certain to go out.

While, of course, candles would probably be safer, in certain contingencies, it is very questionable whether the great inconvenience the public would be subjected to by such a dim light would be compensated for by the slightly increased safety.

The method of storing gas in reservoirs on the cars is one which the Board is not prepared to pronounce as more or less safe than the lamps, there being no evidence attainable at present on the subject. The bursting of such a reservoir in a collision would let loose a highly inflammable material liable to catch fire and do great injury.

#### ANY OTHER AND FURTHER MEASURES OR SUGGESTIONS FOR PRACTICALLY INCREASING THE SECURITY OF LIFE AND LIMB.

The Board presumes that the above resolutions were probably suggested by the circumstances attending the recent disaster on the Vermont Central railroad at White River Junction. To prevent the repetition of such accidents, the Board repeats its recommendations heretofore made, namely :

*First.* That all railroad bridges, whether for small or large opening, be provided with a floor system strong enough to support a derailed truck, and with guard-rails to guide the wheels of the same in such contingency.

*Second.* It recommends that at the approach of all bridges, guard-rails between the tracks be so constructed that in case of derailment the derailed wheels or trucks will be guided back to the tracks.

*Third.* That strong posts be inserted in the ground at the approach of bridges in the prolongation of the line of trusses, so that in case a car be derailed and is not brought back upon the track, through broken truck or axle, it will be prevented from striking the end posts of the bridge by the guard post.

The Board also suggests, not with the view of any legislation at present, however, that in the construction of passenger cars hereafter as little inflammable material as possible be used.

The Board has made in its Annual Report certain recommendations to secure safety of travel which, in conformity with the requirements of the resolution of the Senate, it again repeats :

*First.* To require railroads hereafter constructed, to pass over or under streets, highways and other railroads unless grade crossings are permitted by the courts under proper regulations.

*Second.* To authorize the courts, upon the application of either railroad or highway commissioners, to make such changes as are needed to secure safety at existing highway crossings, and to assess the expense justly.

*Third.* To regulate the packing and transportation of dynamite and other explosives, as public safety requires.

JOHN D. KERNAN,  
WM. E. ROGERS,  
*Commissioners.*

Attest :

WILLIAM C. HUDSON,  
*Secretary.*

#### ACT PROPOSED.

AN ACT to increase the security and safety of life upon steam railroads.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. After January 1st, 1888, no passenger car in use upon a steam railroad of this State shall be heated by a stove or heater, attached to the inside or outside of the car, which is not so constructed and guarded as to prevent the car from catching fire therefrom under any circumstances.

§ 2. After the passage of this act no oil shall be used for lighting any passenger car in use upon a railroad of this State of less than three hundred degrees fire test.

§ 3. After November 1st, 1887, floor systems shall be maintained upon every steam railroad bridge, trestle or cattle-guard so constructed as to support a derailed locomotive or car, with guard-rails or timbers so constructed as to guide the wheels in case of derailment; and guard-rails shall be maintained upon the approaches of all bridges and trestles so constructed as to guide the wheels in case of derailment.

§ 4. After November 1st, 1887, guard posts shall be placed in the prolongation of the line of bridge trusses so that in case of derailment the posts and not the bridge trusses shall receive the blow of the derailed locomotive or car.

§ 5. Any person or corporation violating any of the provisions of this act shall be liable to a penalty of \$1,000, and to the further penalty of \$100 for each and every day during which such a violation shall continue.

§ 6. Upon the application of any railroad covered by the provisions of this act, the Board of Railroad Commissioners may approve of any proposed safeguard or device to be used under the provisions of this act, and thereafter the railroad using such safeguard or device so

approved shall not be liable to any of the penalties prescribed by this act for a violation thereof in regard to any such safeguard or device.

§ 7. This act shall take effect immediately.

#### MINORITY REPORT.

I dissent from so much of the report as recommends or permits the heating of passenger cars by stoves or furnaces placed inside or attached to the outside of a car. Stove or furnace of malleable iron or steel surrounded by a net work of iron, undoubtedly would make such apparatus more safe. But the fact that to all such heating apparatus there must be a door to put in the fuel and another to remove the ashes and cinders still remains, and is an insuperable objection so long as a mass of live coals are ready in case of collision or wreck to be scattered broadcast over the debris. Any system which requires or permits live coals of fire in any shape to be kept or attached to steam passenger cars is not safe. If the late frightful accidents by fire which have burned up so many passengers are to be prevented in the future, the car stove and furnace must go.

The heating of cars by taking steam from the locomotive seems to be practical and comparatively safe. Doubts have been expressed of the practicability of using steam from the locomotive for heating purposes. The testimony before the Board seems to make it clear that it is practicable, and but little, if any more, expensive. Mr. Cloud, formerly engineer of tests, and afterwards mechanical engineer of the Pennsylvania road, and now superintendent of motive power of the New York, Lake Erie and Western railroad, at the hearing said:

"I have been through the subject of steam heating very carefully in the last three months; I experimented and gave considerable time to the matter, and I know a good deal about how much steam a locomotive will make from a certain amount of coal, and how much coal it takes to do the work of hauling a train, and I know how much air it takes for each person and how much fuel it takes to heat it, and how much heat a car full of passengers need, and I am satisfied that unless the temperature outside is below zero, Fahrenheit, that warming a train of cars by steam on a railroad of an average gradient will not increase the draft on the locomotive one per cent. \* \* \* I don't think it will take one per cent unless the temperature is below zero; the size of the train has nothing to do with it.

It also appears on the examination that the Maine Central railway, and the Dunkirk, Allegheny Valley and Pittsburgh railroad, have for a number of years heated their cars successfully by steam from the locomotive. First-class passenger cars are now generally heated by steam generated from a stove or a furnace on the car. By a few simple changes the steam can be taken from the locomotive using the same pipes, with but few changes. The present apparatus for heating may be still left in the car, but to be used only temporarily in case of disconnecting cars, or in any other emergency.

#### LIGHTING OF CARS.

The use of kerosene or any other inflammable oil upon passenger cars should be absolutely prohibited. There seems to be a universal

demand for such a law. It is not necessary for this Board to designate how or with what material cars shall be lighted or heated. It should condemn the car stove and the kerosene "fiend." The question of expense is of little account when the danger of cremation of passengers in an accident is taken into consideration. It is not doubted that there are a number of systems of lighting cars, as well as of heating, which can with increased safety take the place of the car stove and kerosene lamp. I submit herewith two bills for the consideration of the Legislature.

Attest:

WILLIAM C. HUDSON,

Secretary.

JOHN O'DONNELL,

Commissioner.

### ACTS PROPOSED.

AN ACT to regulate the lighting of passenger cars.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. It shall not be lawful for any steam railroad corporation doing business in this State to use for lights in any of its passenger cars, kerosene, mineral or any other inflammable oil, after the first day of July, 1887.

§ 2. The violation of this act shall be deemed a misdemeanor.

AN ACT to regulate the heating of steam passenger cars.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. It shall not be lawful for any steam railroad doing business in this State, after the first day of October, 1887, to heat its passenger cars by any stove or furnace kept inside of the car or suspended therefrom, except it may be lawful, in case of accident or other emergency, to temporarily use such stove or furnace with necessary fuel.

§ 2. The violation of this act shall be deemed a misdemeanor.

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### SUPPLEMENTARY REPORTS.

[March 22.]

#### MAJORITY.

*To the Honorable the Railroad Committee of the Assembly:*

This report is presented agreeably to your request that this Board submit to you such further information as it has obtained in reference to heating and lighting steam railroad cars.

Immediately after the transmission to the Legislature of the majority and minority reports upon this subject, upon February 25, 1887, it was unanimously resolved "That Thomas W. Spencer, the inspector



of the Board, be authorized to investigate and report to this Board as to the practical operations of improved methods of heating and lighting and ventilating steam passenger cars, and to attend such tests as may be made by railroads, and to report thereon to this Board."

On March 15, 1887, the Board received from its said inspector the following report :

"Your inspector, acting under the foregoing resolution, has made a personal examination of devices for warming passenger cars, but thus far confining himself to those systems which propose the doing away of fire inside of cars in motion. In the matters of ventilation and of lighting, particularly the former, he has thus far been unable to learn of any improvements or devices other, or better, than those previously reported to your Honorable Board. For the lighting of cars, a device which proposes to use electricity is about to be tested by the Central-Hudson Company, and at a later period your inspector begs to be permitted to report thereon, also, as to methods of lighting other than using fluid mineral oils.

"Of the heating devices, those using steam from locomotives have up to this period reached the most satisfactory practical results. The most prominent of these are the Martin, the Sewall, the Emerson, and the Gold systems. Your inspector has not been able to give the Sewall device personal examination, but so far as he can ascertain, it is probably as effective as the others. Of the Gold system, long in use on the elevated railroads of New York and Brooklyn, and more recently on the Atlantic Avenue division of the Long Island railroad, your Honorable Board are undoubtedly well advised.

"These several devices are in all absolute essentials quite similar, except in the Gold system hot water is used to retain heat. The differences are confined to the couplings between cars, the arrangement of valves and provisions for condensation. It appears that of these minor differences, they are no more noticeable than in the steam heating of buildings, which are being constantly altered and improved upon, at times quite complicated and again simplified.

"The first system investigated was the

#### "EMERSON DEVICE.

"Four or five years ago Mr. Emerson commenced experimenting on the Connecticut River railroad in the heating of passenger trains with steam taken from locomotives, and from that time up to the present he has thus warmed a train of one combination and two passenger cars during the winter season, and his device has reached a perfection that gives entire satisfaction to the railroad officers, to the trainmen using the system and to the public. At this time there are twelve cars and a number of locomotives fitted for this method of heating on the Connecticut River road. During the past winter a train as above described has been in daily service, Sundays excepted. This train leaves Springfield in the morning and makes two round trips to Northampton, a distance of sixteen miles, and one or two round trips to Holyoke, a distance of eight miles, altogether occupying about thirteen hours, including time between trains at terminals. The temperature at Springfield from December 15 to February 15, as reported at the National Armory in that city, has ranged from six degrees below zero to forty-seven above. The average temperature at 7 A. M. for the period given is about twenty degrees above. January 3 the average or mean temperature was five degrees above. The superintendent of the railroad gave the information that at no time had any difficulty been experienced in thoroughly warming the cars of this train, and only in one instance had a car failed of being properly warmed in the morning, and in that instance, through neglect, a pipe had been left closed over night, permitting the condensed steam to freeze. The engineer of the train stated to your inspector that no loss of power to his locomotive was perceptible, but that one engine was rather small, and it required some attention to properly steam her and make his schedule time. With the larger engines he could see no difference, and, so far as the acting or the firing of the locomotive was concerned, he could not tell if he was using steam to heat the train or not. The master mechanic gave substantially the same information, and further stated that the system of heating was giving great satisfaction to the public.

"In this system the heating of each car is independent; the rear car may be warmed at any desired temperature and the car next to the engine remain cold. Until within a



month the coupler used was the Westinghouse air brake device, but as the steam had to turn two right angles in each coupler, it was deemed advisable to adopt an ordinary steam hose with a brass fitting at each end to connect the pipes between cars, and which is known as the 'Emerson coupler.'

"On the 4th day of March, 1887, a test of the Emerson device was made by the Massachusetts Board of Railroad Commissioners. Your inspector was present and noted the following results: At Springfield a train was made up consisting of seven passenger cars and an engine. Two minutes after the steam had been turned on from the engine it appeared out of the main pipe at rear end of train. The rear end of main pipe of rear car was then closed and steam admitted into the radiating pipes of this rear car. In fifteen minutes the car had a temperature of about fifty degrees, and its steam gauge a pressure of fifteen pounds. The steam was then admitted into the radiating pipes of each car in rotation with about the same results. The outside temperature was about thirty-five degrees above. For the purpose of heating when a locomotive is not at hand, Mr. Emerson has devised a small boiler of the locomotive pattern and which is fastened underneath the side of the car. This boiler is about four feet in length, is made of steel and has about fifty fines. The fire-box is about twelve inches square and about eighteen inches in height. Coal is carried in a pocket beneath the car. The boiler may be filled from the outside, or by ejecting hot water from the locomotive. For this latter purpose an additional pipe enters the locomotive boiler a little below the water line and connects with the reducing valve before the steam pipe leading to the train is reached, and by means of which hot water may, if desired, be thrown into the pipes under the cars. At the test, hot water was thrown into the auxiliary boiler under a car, the steam from locomotive cut off, a fire was lighted in the little furnace, and in a very few minutes steam was raised and the car warmed by this emergency device. To show the difference of danger between scalding with live steam or hot water, Mr. Emerson broke the coupling between two cars, steam was thrown back, and a person could stand quite close to the end of the main without discomfort. When hot water was thrown back no one cared to try the experiment. With a pressure of ten or twenty pounds, unless confined closely to the opening, there appears very little danger of scalding with steam or vapor. A run was made with the entire train to Holyoke and return; the temperature of the seven cars was raised to about sixty-five degrees, and no perceptible difference in the steaming of the locomotive was observed. The grade at the portion of road passed over in no place exceeds thirty feet per mile, and generally is nearly level.

#### "THE MARTIN SYSTEM.

"In the fall of 1884, this system of heating trains from boilers of locomotives was introduced on the Dunkirk, Allegheny Valley and Pittsburgh railroad. At that time the attention of your inspector was called to the device and a careful examination was given it, but for the reason of its being outside of his regular duties, no report was made; yet he was deeply impressed with its merits in case of derailment or wreck of a train.

"At that time the device was on a passenger train consisting of one baggage and two passenger cars and it appeared to work effectively, although the piping was crudely done and ordinary radiators were placed in each car. The couplings were much like those now used. Since that date the passenger trains on that road have been warmed by the same device, all the equipment being provided with the system. There are heavy grades on the road and trains have a run of ninety-one miles. At times extreme cold weather is experienced.

"Under date of March 1, 1887, Mr. Darwin Thayer, general superintendent, writes as follows: 'We have all our passenger equipment, viz.: Eleven coaches, combination and mail cars fitted with the Martin safety heating system, for the past two winters and one train three winters. We first used it to see if it could be done, therefore our pipes in coaches and appliances, etc., are more than I think are now being used, but as it is, it keeps our coaches very comfortable. We have used five cars at most in one train.'

"The Chicago, Milwaukee and St. Paul railroad have five cars; the Cleveland, Columbus and Cincinnati railroad have ten cars; the Boston and Albany have five cars; and the Long Island railroad have two cars equipped with the Martin system, and all in use during the past winter.

"Under date of March 3, 1887, Mr. J. M. Toucey, general Superintendent of the Central-Hudson roads, says: 'The Martin device for heating is being applied to five cars at West Albany.' Under date of March 4, 1887, Mr. Walter H. Barnes, general manager of the Boston and Albany railroad, writes: 'For heating, we have one train heated with the Martin device, which has been running between Springfield and Boston daily all the past winter. We have determined to equip two trains, six cars each, running between Boston and New York, and expect to have them completed about April first.'

"It was the opinion of the general superintendent of the Long Island railroad, Mr. I. D. Barton, as stated to your inspector, that the device they were using on a train of two cars was effective, his only doubts were 'the too great liability of the ball and sleeve joints of the couplers leaking, and to undue wear; but from even his limited experience steam heating from locomotives was practicable on the Long Island railroad as far as now being used, and even with a considerable number of cars. A number of trains of two or three cars each, on the Rapid Transit division, are warmed by the Gold system, and more trains are being fitted with the same device. No heavy trains are run on the Long Island road during the winter beyond Jamaica, as at that point the trains are broken up and parts of some radiate to different points on the island, hence the system is not likely to be tested on that road in heavy trains.'

"March 10, 1887, your inspector made personal investigation and inquiry of the operatives of the Martin device on the Boston and Albany railroad. An accommodation train, consisting of one mail, one baggage and four passenger cars were all, except the last car, equipped with this device. There were no auxiliary heaters or stoves to be used if necessary. This train left Springfield at 7:15 A. M., and arrived at Boston at 11 A. M. The outside temperature was about thirty-six degrees above. For two and a half miles out of Springfield the grade is sixty feet per mile. The locomotive had cylinders of eighteen inches by twenty-two inches capacity. The cars had been warmed before backing into the depot, and were heated to a temperature of about sixty-five degrees when the train started. Careful observations were made during the entire trip of ninety-eight miles, and the cars remained at about the same temperature, and the steam gauges showed a pressure of about two pounds. The deck ventilators were more or less opened and the train made seventeen stops at which all the car doors were in use. It could not be considered a fair test of the device, however, as the outside temperature was too high, and to arrive at a more satisfactory conclusion, inquiries were made of the train crews on this and the return trip, which developed the following facts: It was the experience of the conductor and engineer, who have run this train during the past winter, that the plan of warming their train had proved a complete success. On very cold mornings the engine was attached to the train about one hour before starting, and the cars were heated comfortably at the hour of departure; usually thirty minutes was all the time necessary. No trouble had been experienced even in the severest weather, of keeping the cars at a comfortable temperature, i. e., sixty or seventy degrees, and little attention was necessary beyond the care of the train porter. Thermometers are placed in every car, and a uniform heat is maintained. A pressure of thirty or forty pounds at the engine is used to warm the cars before starting, but after a proper heat is attained the pressure is reduced to five or ten pounds, as the outside weather demands.

"It was observed the day of this inspection that the air was quite pure in the cars, although well filled with passengers.

"The engineer stated his past winter's experience was such that he could safely say that 'there was no objection to the use of steam from his engine to heat the cars of his train;' that he could not discover he had used a shovelful of coal more than he would have done if his boiler had not lost the car steam, although probably with great care a difference could be ascertained, and yet a difficult matter to correctly decide.' As to the power of his engine, there certainly was no loss, and he had made his regular tim. without extra effort; in that respect could not tell if he was heating his train or not. The same experience, substantially, was given by the engineer on the return trip.

"In conclusion your inspector would state that the foregoing are facts prove by experience of others, and by personal observation. In addition, this question was asked in each instance of the different engineers and master mechanics met during these investigations: 'If, with a train of twelve or fourteen cars, and the engine working her full power, could you, without detriment to your engine loss of time, heat your train with steam from the boiler?' The same answer w

almost universal: 'We believe we can, but prefer actual experience before saying much on that subject.'

"Such a test could now readily be made, and the cost of same would be very little. Probably, however, some one of the railroads interested will make this test, as they all appear to be in earnest in the matter of avoiding fire inside or about passenger cars, except for emergency use or when at rest."

Recent railroad disasters have aroused among railroads and inventors great activity to provide safer methods of heating and lighting cars. Aside from the work done by its inspector, the members of the Board have attended tests of heating devices and have endeavored to acquire accurate knowledge of the best results attained.

At the time of its report in February last, the majority of the Board believed that the limit of practical legislation was to abolish the fragile stove, and to permit further time to settle the question between strongly constructed safety heaters, and locomotive steam, and other devices, separate from cars; also that 300 degrees fire test oil should not be prohibited until a better and safer lighting device had passed the experimental stage.

The minority (Com. O'Donnell) of the Board reported in favor of the prohibition of any kerosene, mineral or inflammable oil, and of any stove or furnace inside of or suspended from passenger cars, except that the present heating apparatus may be still left in the car, to be used in case of emergency, thus leaving railroads free to heat and light their cars in any way that they could, except as prohibited.

The facts now in possession of the Board, and herein reported, demonstrate that doubts are rapidly being settled in favor of heating, either by steam or heated air, from the locomotive, or from a separate car to be attached to each train.

Serious objections have been developed as to any form of safety car heater inside of or attached to a car. If so constructed as to withstand the shock of collision, they have to weigh from 600 to 800 pounds, as the Board observed at a test which it attended, and thus might inflict great personal injury in cases where cars are overturned, or rolled down embankments. Their weight and momentum might also cause very serious results to passengers in collisions and accidents accompanied by severe shock. They are to be dreaded even where water bases or other fire extinguishing devices are used. Should an accident happen, as it well may, at the moment that a heater is open to receive coal, or to be otherwise tended, or when carelessly left open, the present danger of setting fire to the car would be added to those caused by its great weight and momentum.

All the improvements thus far proposed in the car stove, to a greater or less extent, simply reduces the percentage of risk, but does not eliminate it. There seems to be no way to absolutely get rid of the dangers incident to the car stove except to abolish it entirely. Again, these safety heaters cost from \$200 to \$300 per car as is reported to the Board. Were the best of them to be extensively adopted, it appears that the rapid strides being made towards heating from the locomotive will soon force the substitution of that method as the safer and cheaper, and thus a large expenditure would have been made in a mistaken direction. Since the tendency of invention and of experiment by railroads seems to be towards heating from a locomotive, and since that method promises greater security to the traveling public,

it is best to urge that all efforts to accomplish the needed reform be made in that direction, rather than divided between expensive safety heaters, which must ultimately be done away with, and methods of independent steam or hot air heating.

Having determined, therefore, that it is best to endeavor to abolish ear stoves and heaters, and to require that steam or hot air shall be used from the locomotive or from an independent car, the next question is, how far ought legislation to go at the present time? We must bear in mind that the traveling public will insist upon having cars kept warm, especially when the outside temperature is from zero downwards. This leads us to consider what inventors call the "state of the art" of steam locomotive heating. The system has been practically tested to an extent that warrants us in saying that under all ordinary circumstances it can be adopted by railroads upon trains of from three to seven cars without serious apprehension of failure from the following causes:

1. The inability of the engine to furnish steam enough.

2. The danger of freezing at the couplings between the cars on account of the collection of water where the pipes settle below a level, and also in the traps which are necessary on any system of heating or using steam pressure.

While the latter danger cannot be said to have been entirely obviated in very severe weather, yet we do not run much risk in assuming that mechanical improvements to be made, and care to be exercised by employees, will, in the course of another winter, give us reliable results in this respect.

Whether our long trains of from ten to fourteen cars can be heated satisfactorily by steam, is a serious mooted question. It has not been done at all, even under favorable conditions. Under the direction of the Board, its inspector asked in each case of engineers and master mechanics, "if, with a train of twelve or fourteen cars, and the engine working her full power, would you, without detriment to your engine or loss of time, heat your train with steam from your boiler?" He reports that the same answer was almost universal: "We believe we can, but prefer actual experience before saying much on that subject." Each inventor and his friends insist that it can be done under his system, and hence that failure to adopt that system at once is almost criminal. But inventors are often mistaken about these matters. This is shown in the following report made by the engineer of tests of the Chicago, Milwaukee and St. Paul Railway Company:

"This is a very important point when engines are already taxed, in most cases to their full capacity. We have made arrangements on this train (consisting of five cars) to catch the condensed water, which gives in a measure the amount of steam used, and we find the quantity quite large—much larger than is claimed by inventors in this line. On a quiet day, with temperature fifteen degrees above, we condensed one hundred pounds of steam per car per hour. This would probably amount to between eight and ten per cent. of the steaming capacity of any ordinary passenger engine drawing a train of ten cars."

The usual ready answer to all this is, "let railroads provide larger locomotives." There is, however, a prudent limit to be observed by railroads in this respect, as well as by those legislating, who regard public safety from all standpoints and not from a single one. Tracks, bridges and trestles will not stand unlimited increase in the weight of

locomotives, and it takes time to prepare them for additional loads. It does not follow that we can carry steam through any length of railroad trains, running at high speed, with the entire surface and heating system exposed to high winds and intense cold, because it can be done for great distances in protected pipes through buildings or under ground.

Besides these difficulties there are others to be overcome, such as heating cars picked up at way stations, cars, especially sleepers, cut out for side road connections, cars in trains caught in snow blockades, cars in cases of accident, either to the train or to the heating-pipes and connections. Upon the whole, our conclusion is that a statute can, however, be safely passed compelling railroads to heat their trains from locomotives, or a special car attached thereto, leaving railroads to work out the survival of the fittest among the many systems proposed, and to energetically endeavor to overcome existing difficulties. This statute ought to apply to all cars in passenger trains, as well baggage and express cars as coaches. There probably ought to be a provision in every statute on the subject, that the Board of Railroad Commissioners might, for good and sufficient reasons, on small roads running mixed trains at a low rate of speed, retain guarded and protected stoves. These trains are the only ones that can be run on some small railroads, and unless all freight cars were equipped with heating-pipes, etc., the passenger cars could not be heated from the locomotive; neither can such a statute well apply to cooking fires in dining-room cars.

In view, however, of the limited success thus far assured, and of the difficulties to be overcome, it would be folly during the transition period to prohibit the retention of stoves for use in case of accident or other emergency that prevents the use of the new devices. Being obliged to provide another method of heating, their own interests will prevent railroads from using or retaining stoves longer than is absolutely necessary in order to provide against contingencies. The Board trusts that steam heating will not be the only method tried and perfected. There is great doubt whether it will ever give as satisfactory results as will come from hot air taken fresh from outside of or ahead of the train and forced back heated through the train. This system would furnish something fit for people to breathe, instead of compelling them to alternate between the foul atmosphere of cars heated by hot pipes, and the blizzards let in from the roofs and windows to intensify the discomfort. The same apparatus ought to furnish pure, cooled air in summer. We would also thereby escape from the possible danger of being scalded by steam and hot water in cases of accident.

Upon the subject of the lighting of cars, the Board has not completed its investigations and inquiries. Further report will be made in relation thereto as soon as such investigation can be completed.

Should the views herein expressed meet with the approval of the committee, the acts heretofore recommended to the Legislature, and now in your hands for consideration, can be amended accordingly.

JOHN D. KERNAN,  
JOHN O'DONNELL,

*Commissioners.*

## MINORITY.

*To the Honorable the Railroad Committee of the Assembly:*

GENTLEMEN: In so far as the report of my colleagues, Commissioners Kernan and O'Donnell, appears to favor the passage of a bill making it mandatory upon railroad corporations to adopt a method of steam heating from the locomotive, I feel obliged to dissent.

While it is unquestionably desirable that a system of continuous heating from the locomotive, doing away with heaters in the cars, should be adopted, yet, for the reason expressed in the report of Commissioner Kernan and myself of February 25th, and for reasons stated in the report of the engineer of tests of the Chicago and Milwaukee road, a copy of which accompanies these reports, showing the difficulties still to be overcome with regard to the coupling and the condensing and freezing of water, I do not think it would be expedient at present to pass a bill positively requiring the adoption of such method.

I also dissent from the suggestion thrown out in the accompanying report of my colleagues, permitting railroad corporations, pending this process of experimentation in steam heating, to continue the use of the fragile and dangerous stove, except when the car is standing still. Were such use continued it would simply result in its permanent retention upon the ground that steam heating was impracticable. If, however, the statute proposed by Commissioner Kernan and myself, on February 25th, be enacted into law, it will compel the railroad corporations either to adopt steam heating, or a safety stove, and will leave no excuse for the retention of the present dangerous article. To meet those cases, however, where heating by steam from the locomotive is in actual operation in good faith, I would suggest that the statute proposed by the majority of the Board in the report of February 25th, be amended as follows:

At the end of section one add the following words: "Provided, that in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, the present stove may be retained, to be used only when the car is standing still."

WM. E. ROGERS,  
*Commissioner.*

Attest: WILLIAM C. HUDSON,  
*Secretary.*

## V.

MAJORITY AND MINORITY REPORTS OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED "AN ACT TO PROVIDE FOR THE ISSUE OF TRANSFER TICKETS BY SURFACE RAILROAD COMPANIES OPERATING ENTIRE WITHIN THE LIMITS OF MANHATTAN ISLAND," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, March 15, 1887.

*To the Honorable the Railroad Committee of the Assembly:*

The Board herewith respectfully returns an act entitled "An act to provide for the issue of transfer tickets by surface railroad compa-



nies operating entire within the limits of Manhattan island," reading as follows:

SECTION 1. The conductor, driver or such other person as is now, or may be hereafter, authorized to demand or collect fares on any car or other vehicle of any surface railroad company operating entirely within the limits of Manhattan island, shall, on the payment by any passenger, as fare, of the sum of five cents, issue to such passenger, if requested, a transfer ticket which shall be receivable as fare by the conductor, driver or other duly authorized agent on any car of any intersecting or adjacent surface railroad company operating entirely within said limits. Said transfer ticket shall be good only for a continuous journey, but shall not be good for a return trip on a parallel road.

§ 2. The directors, managers, trustees or other officers of every surface railroad company affected by the foregoing section shall, immediately upon the passage of this act, meet and adopt such rules and regulations as may be necessary to carry out the provisions of this act.

§ 3. This act shall take effect immediately.

That which is sought to be accomplished in New York by this bill has nowhere been more extensively tried and tested than in Philadelphia. The Board, therefore, in preparing this report has carefully investigated the Philadelphia methods and has ascertained their practical working and results.

There are in Philadelphia two systems. The first is known as the "exchange system." It takes place between railroads that are under separate and distinct control, and is based entirely upon agreement. If we assume two railroads as converging to a common centre the method is this: Each has a fare of six cents, but upon each road, to any person so desiring, the conductor issues a ticket good over the other line, upon receiving therefor nine cents. Thus the passenger secures a trip over each line for four and one-half cents. At the end of the week the two roads settle through a clearing house by exchanging tickets and paying in cash any existing difference. The advantage thus secured to passengers has been stated; the compensation to the roads for the loss of a cent and a half by each lies in the increase and interchange of travel thereby encouraged. In this system there are no transfer agents required, and hence it imposes upon the roads no additional expense except the trifling one of printing tickets and also that of paying a share of the clearing-house expenses. The main objection made to this exchange system by the roads arises from an abuse which can thus be illustrated: Two men work, or are engaged in business, in a large manufacturing or other concern near the common terminus of the roads, and each is a daily rider to and from his work upon one of the lines. Were there no exchange system in operation each would, of course, pay the regular fare of six cents each way, but under that system each buys an exchange ticket and then they exchange tickets at their place of business, and thus, while each rides back and forth on one line only, he pays but four and one-half cents each way. The extent of this abuse could not be ascertained, but it is obvious that it cannot profitably be practiced very extensively. This conclusion seems to be a fair inference from the fact that, notwithstanding it, the system has long been in operation in Philadelphia. No abuse



has arisen from the sale of the exchange tickets at news stands, etc., and indeed such an abuse is said never to arise where an exchange ticket costs anything. The disposition of such tickets is too precarious to promise much regular profit upon the investment.

A reduction of the regular fare to five cents has been determined upon by the Philadelphia roads. Upon making such reduction the exchange system is proposed to be abolished, because of the abuses stated, and because the roads believe that in carrying each way for five cents they will get all the benefits of the exchange system without the expense of maintaining it.

As has been stated, this system is founded upon an agreement between railroads. The roads making it generally approximate each other in length, or the division of receipts is based upon the lengths of the lines, and thus the injustice is avoided of compelling a long uptown road to do more work for the same amount of money as is received by a short crosstown road.

Under the proposed bill nothing is said about a division of the earnings from exchange. It is probably presumed that if the bill becomes a law such an agreement would be compelled. Doubtless an agreement would be desired by those roads that, under the law, would find themselves obliged to take more tickets from another line than were issued to it. It might well be for the interest of some roads to refuse to make an agreement for a division of earnings, or for the redemption of their tickets issued for exchanges. The question, therefore, is, can we by statute compel roads to issue these exchange tickets and to make fair and equitable agreements to divide and pay over the earnings from exchange tickets?

In the first place it virtually cuts down the fare of every one who buys an exchange ticket, to two and one-half cents on each line. This would be less, probably, than any road can be operated for; and in all cases of roads earning less than ten per cent upon their capital actually expended would not be in accordance with section 33 of the General Act.

Again, while the power of the Legislature to cut down the fare upon street railroads is clear, yet it is doubtful whether a road can be compelled to accept for fare a ticket issued by a separate corporation to which all the money designated for both roads has been paid, and to which the former must look for its share. Because of the bankrupt, or involved, or litigious character of a road, another line might, under such a statute, be compelled to carry not only for half fare but for substantially nothing.

Had a provision been inserted in the original charters requiring exchange tickets to be issued at a reduction, it would have answered a useful purpose, but to impose such a provision upon street railroads already organized, against their consent, would, in the judgment of the Board, be an enactment of very doubtful legality. Agreements among railroads by which exchange tickets at a reduced rate of fare can be issued for the benefit of the public ought to be encouraged, but they cannot, in the opinion of the Board, be thus forced.

The second system in operation in Philadelphia is the transfer system. This takes place between different lines under one management and control.

Upon the Philadelphia Traction Company's lines there are about one

hundred and fifty transfer points. Formerly a passenger desiring a transfer was furnished by the conductor with a ticket entitling him to a continuous ride over an intersecting line. As the passenger left the car with his ticket, and no transfer agents were employed, the ticket was virtually good on any car for that day. This led to a regular outside traffic in such tickets. It is alleged that nearly every one would take a ticket and, if not desiring to ride further, would sell the ticket at a news stand for a paper, and thus the news stands kept a constant supply of such tickets on hand at reduced rates, which tickets had really cost the passenger nothing. In order to obviate this difficulty the road now stations at each transfer point a transfer agent, whose duty it is to transfer passengers to the next passing car, and to check their number upon a slip carried by the conductor of that car. This system is beneficial both to the people and to the railroad. While it is quite an expense to the road, yet it increases travel and makes the system one in fact, as it is in name.

All roads operated, leased or combined under one management ought to transfer passengers in this way, so as to permit a person to pass over two or more of the lines, or portions thereof, for a single fare,

In the General Street Railroad Act, being chapter 253 of the Laws of 1884, and in the Steam Surface Railroad Leasing Act, applicable to cities of over 800,000 population, will be found provisions, approved by this Board, providing for this transfer of passengers upon lines under one management for a single fare.

Inasmuch, therefore, as the Board does not believe that the Legislature has power or ought to compel separate and distinct street railroads to issue, exchange or transfer tickets, as provided in the proposed bill, and inasmuch as the insurance of transfer tickets for a single fare over railroads and branches thereof operated, leased or combined under one management, is provided for as above stated, the Board returns the proposed act without recommending its passage.

By the Board,

WILLIAM C. HUDSON,

*Secretary.*

#### MINORITY REPORT.

I dissent generally from so much of the report as is embraced in the following paragraph :

"The question, therefore, is, can we by statute compel roads to issue these exchange tickets and to make fair and equitable agreements to divide and pay over the earnings from exchange tickets?"

"In the first place it virtually cuts down the fare of every one who buys an exchange ticket to two and one-half cents on each line. This would be less, probably, than any road can be operated for; and in all cases of roads earning less than ten per cent upon their capital actually expended would not be in accordance with section 33 of the General Act."

Upon the general question of the power of the Legislature by statute to compel street railroads to issue exchange or transfer tickets, I have no doubt. There is no such thing as a vested right in any street, surface or elevated railroad in the city of New York. In discussing this question in the first minority report made by me, on the five-cent fare bill of the elevated railroads, I said:

"But if the fact were otherwise—if Legislatures under corporation control had declared in each of these acts that they should never be changed—that the rates of fare

and charges therein named should remain forever, or until the companies consented to their reduction—the right of any Legislature to reduce these fares or make any other changes in the acts would still exist, full, fair, clear as the right of self-defense, or the right to life and liberty. For it is written in the fundamental law and compact of our State, in the eighth article of our Constitution, which underlies all laws, general or special, which creates or regulates all corporations, that they '*may be altered from time to time or repealed.*'

That some difficulty would be experienced at first in arranging all the details for an exchange or transfer system is quite probable, but it is believed that no insurmountable obstacle exists in arranging such a system if once entered upon intelligently, aided, if necessary, by this Board.

While not ready to recommend all that is proposed in the bill, I am quite unwilling to dismiss it with an adverse report, and so give the Honorable Railroad Committee of the Assembly the sanction of the Board for an adverse report on the bill. That the rates of fare charged on the street railroads of New York are generally too high I have no doubt. The suggestion in the majority report that section 33 of the General Railroad Act protects any railroad from a reduction of fare, or that any question of good faith between the State and these railroads is involved in a reduction of their earnings, either by lowering the fare or by transfer or exchange tickets, I do not for a moment entertain. The "capital actually expended," referred to in that section, if it means anything means cash paid out in construction and equipment. Not inflated, watered capital, with huge fictitious bonded indebtedness, the interest of which must be paid from earnings before any dividend can be declared, but, on the contrary, honest capital paid out in honest construction. In a minority report made by me to the Honorable Assembly (Feb. 11, 1885, Vol. 1, Com. Rep. 1885), I said:

"It was a common remark during what was called the "gridiron" period in 1860, when so many street-routes were bartered away by the Legislature, 'that for every \$1,000 of stock \$500 was paid to secure the franchise;' and upon this so-called 'capital actually expended' in debauching the representatives of the people, enormous dividends have been and are now being paid. \* \* \* The streets of New York are the property of her citizens,—the humblest as well as the most powerful citizen being a joint owner. The history of her horse and elevated roads shows that the only real estate in the city that a poor citizen can claim ownership to has been by law taken away from him for public use, forcing him in return to pay toll from his scanty wages as he travels to and from his daily toil in exorbitant fares to build up colossal fortunes for the owners of these valuable franchises."

While it seems impracticable to compel the transfer system over the entire extent of the surface railroads of the city of New York, owing to the fact that its one hundred and twenty-five miles of that description of railroads are owned by a dozen or more distinct corporations whose charters have been granted by special acts of the Legislature, at different times during the last forty-five years, and under which each company may and does operate an independent road, under a claim of a vested right, still there are important portions of that mileage that can be brought under the operation, not only of the transfer system, but after proper examination by the Board, may without injustice be subjected to a reduction of fare to the great advantage of the public, whose right to the largest facilities for the least money consistent with adequate compensation on the capital invested in providing them, so

long as New York city pursues the mistaken policy of collecting toll on her streets and avenues, is indisputable. Some of the roads intersecting and connected with the lines on Broadway, operated between Fourteenth street and the Battery, are conspicuous examples of roads that can profitably carry passengers at a reduction of fare. That part of Broadway is undoubtedly the most convenient, economical, prolific and profitable of street railroad traffic in the world. The lines that employ it as their common trunk, which is short, are also comparatively short, none of them exceeding five or six miles in length, including the portion of that trunk employed by them. The traffic operations of these roads, as shown by their quarterly reports, since the Broadway Surface grant was made, disclose that they could very well submit to a reduction of fare if it became unavoidable under the operation of the transfer system. The Broadway railroad can profitably carry passengers for a three-cent fare. The Legislature very wisely initiated inquiry into its fraudulent charter, and the courts have entered upon a long and expensive adjudication of the rights of the corporations involved. While aldermanic booblers have received just punishment the great culprit, the Broadway corporation, is enjoying immunity and the public are tolled to enrich its stockholders. The ends of justice will never be fully served while it is permitted to charge five-cent fares over its short road. If any transfer system should be authorized it would be no hardship if it resulted in this road receiving but three cents fare instead of five, while justice would be promoted by at once reducing the fare from five to three cents.

Questions are constantly arising, as in this case, as to the actual cost of railroads. As has been frequently shown in reports from this Board the capital stock authorized or issued from a road, is little or no index to its actual cost. Until such knowledge is had any general action is like groping in the dark. Impressed with this fact, in the first minority report made on the elevated five-cent fare bill, before referred to, I recommended the following act, which I again recommend to the consideration of your Honorable Committee, and through you to the Honorable Assembly:

**AN ACT to ascertain the capital actually expended in the construction of railroads.**

*The People of the State of New York, represented in Senate and Assembly do enact as follows:*

SECTION 1. It shall be the duty of the Railroad Commissioners, as soon as practicable, consistent with the duties heretofore devolved upon them, to examine and ascertain the cash capital actually expended in the construction and equipping of each of the surface railroads in the State, including street railroads, and report the same to the succeeding Legislature."

I also have amended the bill referred to the Board, so that it reads as follows:

**AN ACT to provide for an exchange or transfer system, between certain horse railroads in the city of New York.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The conductors, drivers or such other person as is now, or may be hereafter, authorized to demand or collect fares on any car or other vehicle of any surface

railroad company operating any portion of its road on tracks laid on the surface in the city of New York, between Fourteenth street and the Battery, for a distance of more than five hundred feet, shall, on the payment of any passenger, as fare, of the sum of five cents, issue to such passenger, if requested, a transfer ticket which shall be receivable as fare by the conductor, driver or other duly authorized agent on any car of any such railroad company. Said transfer ticket shall be good only for a continuous journey, but shall not be good for a return trip.

§ 2. The directors, managers, trustees or other officers of every surface railroad company affected by the foregoing section shall, immediately upon the passage of this act, meet and adopt such rules and regulations as may be necessary to carry out the provisions of this act.

JOHN O'DONNELL,  
*Commissioner.*

## VI.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE ASSEMBLY BILL ENTITLED "AN ACT TO PROVIDE FOR THE SECURITY OF PASSENGERS AND EMPLOYEES UPON THE ELEVATED ROADS IN THIS STATE," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

### STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, April 5, 1887.

*To the Honorable the Railroad Committee of the Assembly:*

The Board of Railroad Commissioners herewith respectfully returns an act entitled "An act to provide for the security of passengers and employees upon the elevated roads in this State."

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. It shall be the duty of every corporation owning or operating an elevated railroad in this State to erect and maintain on each side of their structure between the stations thereof a foot bridge or passage three feet wide, together with a guard rail four feet high on the outside of such foot passage; and such foot passage shall be so connected with the platforms of such station as to permit free and easy access thereto.

§ 2. The provisions of this act shall be complied with within six months from the date of the passage of this act, and a failure to comply therewith shall be deemed a misdemeanor, punishable as such: and in addition thereto the corporation so failing to comply with the same shall forfeit and pay the sum of one hundred dollars for each and every day they shall so fail or neglect, to be recovered, with costs, by any person who may sue for the same in any court of competent jurisdiction, one-half to be paid to the prosecutor and the other half to the county treasurer for the use of the poor of the county where the recovery is had.

§ 3. No person who may be injured or killed through the violation of or failure to comply with the provisions of this act shall be deemed to be guilty of contributory negligence, in any action which may be brought to recover for such injury or death.

§ 4. This act shall take effect immediately.

This Board ascertained in 1883, that track employees upon the elevated railroads of New York city, were liable to injury by reason of their being no walks for their use by which to pass from place to place, or to escape passing trains. The Board, therefore, recommended "that track walks should be completed without delay along

the whole length of the lines." This recommendation was repeated in 1885, and to a considerable extent has been complied with. Upon a recent occasion passengers from delayed trains got out on to one of these walks, and in a panic and confusion that ensued many persons were killed or injured by falling therefrom to the street. This accident not only suggests the necessity of providing walks by which in case of emergency passengers can reach the station, but also that of having proper hand rails thereto.

The object of the bill proposed is, therefore commendable. In its present shape, however, the Board does not deem it at all practicable.

Upon five miles of the Sixth avenue structure no sidewalk can be constructed that will be of any practical use, inasmuch as the trusses are about four feet high and come close up to the line of the track on each side. Upon the many miles of "one legged" structure, so-called, built on single columns over the curb, a sidewalk on the outside is practicable and would be useful, but under the proposed bill there would have to be one as well on the inside of the track, over the sidewalk and adjoining the buildings. In that position a walk would cause great annoyance without being at all necessary or useful.

At many places the walk can be placed between the tracks, as is done in Brooklyn and on Pearl street in New York. Where this can be done, a much safer and better protected walk will result than from walks on "each side of the structure," as provided in the proposed bill. Where the walk is so placed between the tracks no railing can be placed there, nor is it needed. By depressing the walk the structure itself forms a railing on either side of the walk.

These examples of the difficulty of framing a specific statute on this subject can be indefinitely multiplied, but enough has been cited to show that a bill, to be of any use in this matter, must vest in someone discretion to direct as to how and where these walks and railings shall be constructed.

For these reasons the Board cannot recommend the proposed bill, but does recommend that the following be substituted therefor:

SECTION 1. It shall be the duty of every corporation owning or operating an elevated railroad in this State to erect and maintain track walks with suitable hand rails thereto upon their structures, to be approved by the Board of Railroad Commissioners.

§ 2. Failure to comply with the provisions of this act within such time as shall be fixed by said Board, shall be deemed a misdemeanor and punishable as such.

§ 3. This act shall take effect immediately.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## VII.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE ASSEMBLY BILL ENTITLED "AN ACT IN RELATION TO THE INSPECTION OF ELEVATED RAILROAD STRUCTURES," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, April 5, 1887. }

*To the Honorable the Railroad Committee of the Assembly:*

The Board of Railroad Commissioners herewith respectfully returns an act entitled "An act in relation to the inspection of elevated railroad structures in this State."

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Governor of the State of New York shall, within thirty days after the passage of this act, and thereafter as necessity may require, appoint a suitable person who shall be inspector-in-chief, and who shall be a practical engineer, in each of the respective cities and counties of this State, wherein there shall be at the time of the passage of this act, or hereafter shall be erected, any elevated railroad structure, whose duty it shall be to inspect elevated railroad structures as hereinafter specified and directed. Such inspector-in-chief shall hold office for the term of three years from the date of appointment, unless sooner removed.

§ 2. Said inspector-in-chief shall appoint suitable persons who shall be practical engineers as deputy inspectors of elevated railroad structures, not to exceed one for every six miles of elevated railway structures in said city or county for which said inspector-in-chief is appointed, whose duty it shall be to inspect said elevated railway structures, under the supervision and direction of said inspector-in-chief, and as hereinafter specified, and who shall hold office during the term of said inspector-in-chief, unless sooner removed by him.

§ 3. It shall be the duty of the inspector-in-chief to divide the lines of elevated railroad structures within the city or county for which he shall be appointed into districts of not less than six miles each, except in cases where the total number of miles cannot be equally divided by six, when the excess shall constitute an additional district, to make and prescribe rules and regulations which shall govern deputy inspectors in the inspection and examination of elevated railroad structures, to furnish each deputy inspector with forms or blank certificates of inspection, together with necessary apparatus and appliances for inspecting and examining elevated railroad structures, to keep a correct record of all reports of inspection made to him by the deputy inspectors, which records and reports shall be the property of the State, and be filed annually in the office of the Secretary of State, to report to the Attorney-General of the State within five days after report of the same shall have been made to him, the existence of any defect in such elevated railroad structures, in case the person, company or corporation owning or operating said elevated railways shall have neglected or refused to repair such defect, after having been duly notified by him so to do. The said inspector-in-chief shall receive annually from the fund hereinafter directed to be raised to be paid by the Comptroller, a salary of four thousand dollars. The expense of furnishing apparatus and appliances for the purpose of inspecting elevated railroad structures as hereinbefore described shall be paid by the Comptroller from the fund hereinafter directed to be raised. No bill for any expense or charges shall be paid, however, unless the same be certified by the inspector-in-chief to be correct.

§ 4. It shall be the duty of each deputy inspector appointed in pursuance of this act, to make daily inspections of the elevated railway structures within the district for which he shall be appointed, to report immediately to the inspector-in-chief and also to the person, company or corporation operating said elevated railroad, any defect in said elevated railroad structures, which shall render said



elevated railroad structure unsafe, and also to report to the said inspector-in-chief, and to the person or persons, company or corporation operating said elevated railroad, any repairs which may be necessary to be made upon said elevated railroad structures to render the same secure, to render to the inspector-in-chief a weekly report of the condition of elevated railroad structures within the district for which they shall be respectively appointed, and to perform such other duties in relation to the inspection and examination of the said elevated railroad structures as may be required by the rules and regulations prescribed by the said inspector-in-chief, as hereinbefore specified. Said deputy inspectors to receive an annual salary of two thousand five hundred dollars each, to be paid by the Comptroller from the fund hereinafter directed to be raised in the same manner as the salary of other State officers.

§ 5. The annual expense of said inspectors of elevated railroad structures including the salaries of the said inspector-in-chief and the deputy inspectors appointed in pursuance herewith, and all other expenses incident to the due execution of the provisions of this act, shall be borne by the respective persons, companies or corporations owning or operating said elevated railroads in the respective counties for which the said inspectors shall be appointed, according to their means, to be apportioned by the Comptroller and State Assessors, who, on or before the first day of July in each and every year, shall assess upon each of said persons, companies or corporations, his, their or its just share of the expenses incurred in the inspection of elevated railroad structures within the county or city where said elevated structure is situated, one-half in proportion to its net income for the year preceding the year for which the assessment is made and one-half in proportion to the length of main track or tracks on road, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations.

§ 6. Any person or persons, company or corporation owning or operating any elevated railroad within this State who shall refuse or neglect, after receiving the notice of the existence of the same, to repair any defect in said elevated railroad structures within a reasonable time after receiving such notice, shall forfeit to the people of this State a penalty of one thousand dollars for each offence, to be recovered by the Attorney-General in an action in the name of the people of this State, and the amount so recovered to be applied to the payment of the expenses of the inspection and examination of elevated railroad structures as hereinbefore provided; provided, nevertheless, that no part of said penalty shall be placed to the credit of any person or persons, company or corporations incurring the forfeiture. And it shall be the duty of the Attorney-General upon receiving due notice of the failure of any person or persons, company or corporation to make the repairs or remedy the defects in the elevated railroad structures owned or operated by them, after receiving due notice of the existence of such defect or the necessity for such repairs, as hereinbefore specified, to proceed immediately by action as hereinbefore set forth to recover the penalty for such failure or refusal, provided by this section.

§ 7. This act shall take effect the                      day of                      , 188 .

As to the necessity and advisability of said proposed act the Board reports as follows:

There is no doubt that elevated railroads in cities ought, at all times, to be under the strict supervision, not only as to their original construction, but also as to their deterioration, whether caused by use, or by age, or by the elements.

The elevated railroads of New York and Brooklyn as originally constructed are generally believed to have had an ample margin of safety, but some uneasiness have been expressed lest they should, by reason of gradual deterioration and of the enormous traffic demands made upon them, become so weakened and over-strained as to threaten danger. The Board has, therefore, investigated in order to ascertain what system of care and inspection is maintained over these structures; also, whether such system is in accord with proper public demands and is such as to show that the railroad managements are alive to their great responsibility in the matter.

Upon the structures of the Manhattan Railway Company in New York city—covering about 31.44 miles of single track—the list of the men as reported to this Board, with their respective stations, who have charge of the inspection of and repairs to track, structures and buildings, is as follows :

A chief engineer and two assistant engineers in charge of structures, buildings, track and signals and all construction and repairs.

Mr. Lucius, assistant engineer, making daily examinations of girders on the different lines.

A roadmaster for all lines—a practical iron worker.

An assistant roadmaster for all lines—a practical trackman.

A supervisor for each of the four lines.

One inspector of columns and foundations on all lines who inspects same from the street. He is a practical boilermaker, and assisted in constructing the foundations when the roads were built.

#### DISTRIBUTION OF REPAIR FORCE.

##### *Track gang—Second avenue line.*

One foreman and 8 repairmen, Chatham square to Sixty-seventh street; 1 foreman and 8 repairmen, Sixty-seventh street to One Hundred and Twenty-ninth street; 2 yardmen at Sixty-seventh street; 1 trackwalker, Chatham square to Thirty-fourth street; 1 trackwalker, Seventy-fifth street to One Hundred and Thirtieth street; 2 yardmen at One Hundred and Thirty-ninth street; 1 trackwalker. Twenty-fourth to Seventy-fifth street.

##### *Structure gang—Second avenue line.*

One foreman and 4 repairmen, Chatham square to One Hundred and Thirty-ninth street; 1 rivet inspector, Chatham square to One Hundred and Thirty-ninth street; 1 supervisor, Second and Third avenues.

##### *Track gang—Third avenue line.*

One foreman and 18 repairmen, South Ferry to Fifty-third street; 1 foreman and 6 repairmen, South Ferry to One Hundred and Thirty-ninth street; 1 yardman at Chatham square; 1 yardman at Forty-second street; 2 yardmen at One Hundred and Thirty-eighth street; 1 trackwalker, Canal to Twenty-eighth street; 1 trackwalker, Sixty-eighth to Eighty-ninth street; 1 foreman and 18 repairmen, Fifty-third to One Hundred and Thirty-ninth street; 1 yardman at South Ferry; 1 yardman at City Hall; 3 yardmen at Ninety-sixth street; 1 trackwalker, South Ferry to Canal street; 1 trackwalker, Twenty-eighth to Fifty-ninth street; 1 trackwalker, Eighty-ninth to One-hundred and Thirty-fifth street.

##### *Structure gang—Third avenue line.*

One foreman and 8 repairmen, South Ferry to One Hundred and Twenty-ninth street; 1 rivet inspector, South Ferry to Fifty-third street; 1 foreman and 53 construction men; rivet inspector, Fifty-third to One Hundred and Twenty-ninth street.

##### *Track gang—Sixth avenue line.*

One supervisor, Morris to One Hundred and Fifty-eighth street; 1 foreman and 21 repairmen, Morris to Fifty-eighth street; 1 yardman at Rector street; 1 yardman at One Hundred and Forty-fifth street; 1 trackwalker, Morris to Twenty-third street; 1 trackwalker, Eighty-third to One Hundred and Tenth street; 1 foreman and 31 repairmen, Eighty-third to One Hundred and Fifty-ninth street; 1 yardman at Thirty-eighth street; 3 yardmen at One Hundred and Fifty-fifth street; 1 trackwalker, Twenty-third to Fifty-eighth street; 1 trackwalker, One Hundred and Tenth to One Hundred and Fifty-fifth street.

*Structure Gang—Sixth avenue line.*

One foreman and 3 repairmen, Morris to One-hundred and Fifty-eighth street; 1 rivet inspector, Morris to Fifty-eighth street; 1 assistant foreman, Morris to One-hundred and Fifty-eighth street; 1 rivet inspector, Eighty-fifth to One-hundred and Fifty-eighth street.

*Track gang—Ninth avenue line.*

One supervisor, South Ferry to Eighty-third street; 1 foreman and 17 repairmen, South Ferry to Eighty-third street; 1 yardman at Battery place junction; 1 yardman at Fifty-third street; 1 trackwalker, South Ferry to Forty-second street; 1 yardman at South Ferry; 1 yardman at Rector street; 1 yardman at Fifty-ninth street; 1 trackwalker, Forty-second to Eighty-third street.

*Structure gang—Ninth avenue line.*

One foreman and 4 repairmen, South Ferry to Eighty-third street; 1 rivet inspector, South Ferry to Eighty-third street.

*Interlocking switch repairmen.*

One on Second avenue; 1 on Third avenue; 1 on Sixth avenue; 1 on Ninth avenue; 11 on general repairs, all lines; 1 general inspector.

*Drip-pan repairs.*

One foreman and 9 repairman on Second, Third, Sixth and Ninth avenue lines.

*Blacksmiths.*

Nine men on Second, Third, Sixth and Ninth avenue lines; 1 carpenter for each line to make repairs to stations, etc.

*Night force.*

One foreman on all lines with headquarters at South Ferry; 1 man at South Ferry, Third avenue; one man at City Hall, Third avenue; 1 man at Chatham square, Third avenue; 1 man at Forty-third street, Third avenue; 3 men at Ninety-eighth street, Third avenue; 1 man at One-hundred and Thirtieth street, Third avenue; 1 man at Sixty-seventh street, Third avenue; 1 man at One-hundred and Thirty-ninth street, Second avenue; 1 man at South Ferry, Ninth avenue; 1 man at Rector street, Ninth avenue; 1 man at Fifty-ninth street, Ninth avenue; 1 man at Rector street, Sixth avenue; 1 man at Fifty-eighth street, Sixth avenue; 1 man at Ninety-third street, Sixth avenue; 1 man at One-hundred and Forty-fifth street, Sixth avenue; 1 man at One-hundred and Fifty-fifth street, Sixth avenue.

"The yardmen and nightmen have charge of the frogs, switches, signals, etc., and make all minor repairs and adjustments to the same at their respective stations.

"The engineers and roadmasters were engaged in the construction of roads, and, with one exception, have been continually in the company's service since that time."

Since the structure of the Brooklyn Elevated Railway Company, covering about 13.10 miles of single track, the force employed in care and supervision, as reported to the Board, is as follows:

"The present force engaged in the care and supervision of structure, track, switches, etc., consists of the following:

"Chief engineer, with two assistants, in charge of all plans, etc., either, for additions or repairs.

"One roadmaster, whose duty is to have personal supervision over the structure, foundations and track. This man is a practical bridge erector and iron worker.

"Two foremen in charge of track and structure, both practical bridge men and iron workers.

"Three men in charge of repairs to switches and interlocking apparatus, switches, etc.

"Four trackwalkers, whose duty it is to patrol the track day and night, tightening bolts, clips, etc., and examining rails and rail joints, etc., for signs of weakness or failure.

"Floating gang of four men, all practical iron workers, who make all necessary repairs to structure under foreman, and roadmaster directs supervision."

In February, 1885, a number of competent experts were employed to examine and report as to the strength and safety of the Manhattan structures. Their report is hereto annexed. This report strongly insists that these structures are entirely safe for their present work, and, that no deterioration in their material has taken place, in so far as the same can be detected by any scientific tests.

Under section 4 of chapter 352 of the Laws of 1882, this Board is given "the general supervision of all railroads and railways, and shall examine the same and keep themselves informed as to their condition and the manner in which they are operated, with reference to the security and accommodation of the public." Under this provision, this Board, in 1883, made a careful examination of the strain sheets of the Manhattan structures, and as the result, recommended that certain portions of the Sixth Avenue line be reinforced so as to bring them within the margin of safety prescribed by the Rapid Transit Commissioners. This recommendation was complied with.

When we consider the system of inspection maintained by the roads, and that supervision required by law to be exercised by this Board, there hardly seems to be any necessity for the creation of officials as provided in the proposed bill. In such matters as the safety of railroads, public supervision ought never to go so far as to enable the roads, in case of disaster, to shift the responsibility therefor on to the shoulders of some one else. By holding all railroads to the highest responsibility for the safety of their lines and the efficiency of their management, as great safety and efficiency will be attained as is practicable.

For these reasons the Board cannot recommend that the proposed act become a law.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## VIII.

REPORTS OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED "AN ACT IN RELATION TO THE RAILS OF STREET SURFACE RAILROADS IN CITIES OF THIS STATE," REFERRED TO IT BY THE ASSEMBLY COMMITTEE ON RAILROADS.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, April 13, 1887. }

*To the Honorable the Committee on Railroads of the Assembly:*

Commissioner ROGERS—The Board herewith returns Assembly bill printed No. 285, entitled "An act in relation to the rails of street

surface railroads in cities of this State, referred to it by your Honorable Committee under date of March 30, 1887.

The object of the bill, as defined in sections one and two, is to prevent in cities having a population of 500,000 and over, the laying down of what are known as "centre-bearing" rails, on street surface railroads. Section two provides:

"Within one year from the passage of this act, the owners of all street surface railroads now in operation in said cities, shall remove from their route or routes all 'centre-bearing' rails and substitute in place thereof 'tram' or 'groove' rails, which shall be laid flush with the pavement of the carriage-way of the streets covered by said route or routes.

A public hearing was had at the office of this Board on the morning of April 12, after due notice. The street surface railroads of the cities of New York and Brooklyn were very numerously represented by their presidents, managers, etc. The Hon. John B. Shea and the Hon. Eugene S. Ives appeared in favor of the bill.

A member of the Commission visited Philadelphia the latter part of last week and gathered all the information possible with regard to this matter in the short time allowed, as it had been stated that the grooved and tram rails were in general use in that city. It was found that the tram rail was in general use, but very little grooved rail appeared anywhere.

A large amount of discussion was had at the hearing and as much information as possible on this important subject elicited.

The sum total of the investigations of the Board to date go to show that the centre-bearing rail forms a track which it is more difficult to turn into than if the rail were what is known as the tram section; the reason is that the centre-bearing rail has a projection upon which the tread of the wheel runs over the centre of the stringers or timbers upon which it is laid. It is impossible to pave close up to this projection; there is, therefore, always a little groove between the projection and the paving stones of about an inch and a quarter in width. This groove is apt to be widened by the wearing away of the adjacent paving stones, forming a rut on the outside of the track. It thus makes it more difficult for trucks or vehicles of any sort to turn into the track. So far as turning out is concerned, however, there is no greater difficulty than with the tram rail.

It was generally admitted by the railroad men present at the hearing that one of the principal objects in adopting the centre-bearing rail was not to give too great facilities to vehicles to turn into the track, for the reason that such vehicles impeded the progress of the cars. With the tram rail a wider surface is presented to the wheels and greater temptation given to drive within the track, thus affording obstacles frequently to the passage of the cars.

A letter was received from the mayor of the city of New York (a copy of which is transmitted herewith) severely condemning the centre-bearing rail and advising the substitution of the grooved rail in place thereof.

The representatives of the railroads protested vigorously against the passage of the bill upon the grounds,

*First.* That the expense of substituting either the grooved or tram rail for the present centre-bearing rail would be very great, involving practically the rebuilding of the road.

*Second.* That the centre-bearing rail allows easier and better traction than can be secured by the tram or grooved rails, for the reason that with the grooved rail the groove becomes full of dirt and constant derailment takes place, and that with the tram rail, the outer edge being flush with the pavement, it is constantly covered with dirt, making it more difficult to draw and more difficult to stop; and,

*Third.* As stated heretofore, greater temptation is presented to vehicles to turn in and block the way.

The first objection is unquestionably a very serious one; the expense of substituting tram or grooved rails for the centre-bearing rails is variously estimated at from \$5,000 to \$20,000 a mile, depending upon the construction of the track. In order to maintain the gauge the same as at present the longitudinal stringers would all have to be moved closer together, inasmuch as the projection of the tram rail would be two or three inches further out. In the case of cable surface roads, where there is an elaborate substructure of tubing, etc., the expense would be very great indeed.

The fact is also to be taken into consideration that these centre-bearing rails have all been laid down in accordance with statutory authority and with the consent and approval of local authorities, where such approval has been required under the law. It, therefore, becomes a very serious question whether legislation ought to be summarily passed compelling an entire change in the construction of the railroads, unless such change is very clearly shown to be expedient in the public interests.

The grooved rail was in general use some years ago, but has been almost universally abandoned for reasons hereinbefore stated. The Board does not deem that its readoption — certainly with the present lights on the subject — would be advisable.

So far as the tram rail is concerned, under all the conditions of traffic found in cities to which this bill is intended to apply, it would seem to have very great advantages, namely, the facility to turn into it, and the maintenance of the pavement flush with the rail if the former is kept in good order, and the facility afforded to vehicles for running upon it. Its disadvantages, as claimed by the railroads, are that the bearing of the cars being entirely upon the outside edges the bolts become loosened, the spikes drawn out, and the track generally very much deteriorated, particularly under the heavy traffic in the cities of New York and Brooklyn.

Within the short time allowed the Board to investigate this important question, I have not been able to satisfy myself entirely as to the force of these objections, but recognizing that they are entitled to due consideration, inasmuch as they were urged unanimously by the representatives of the railroads, I should hesitate to recommend the passage of a bill compelling extensive substitution of this rail. The subject is a very important one, and with the present lights thereon I would not feel disposed to go further than to suggest amending the bill to the effect that no centre-bearing rails shall hereafter be laid in constructing new roads, and for the present centre-bearing rails there should be substituted either tram rails or some other form of rail to be approved by the local authorities of cities and villages, so constructed that the paving stones could be laid in close contact with the projection of the rail which guides the flange of the wheel, and at a

rate not less than ten per cent of the tracks now laid with centre-bearing rails during each year beginning with July first of the present year.

Attest :

WILLIAM C. HUDSON, *Secretary*.

Commissioner KERNAN—While concurring generally in the conclusion of Commissioner Rogers' report I cannot agree that but ten per cent of "centre-bearing" rails ought to be removed each year. The "centre-bearing" street rails ought to be replaced with the "tram" or some other better kind of rail as speedily as is practicable, and as is consistent with justice towards the railroad companies. I think such change ought to be made more rapidly than at the rate of ten per cent annually.

It may be conceded that the centre-bearing rail is best for the companies and their passengers alone considered. In construction it costs no more, while in wear and tear and repairs it costs less than any other rail. It repels vehicles and thus saves wear from their use upon it, besides enabling the roads to afford more rapid service because of unobstructed tracks. To passengers it also insures comfortable riding. To say, however, that for these reasons, its use upon public streets is justified is to lose sight of the rights of the public who drive vehicles upon those streets.

The right of the road is to lay down and maintain necessary tracks of such form and in such a way as shall be least injurious to a street as such, and to have the "right of way" over such tracks as against all vehicles. The right of the vehicles is to have the use of the entire road, subject to yielding the right of way as stated, in as unobstructed a condition as is practically consistent with the railroad's necessities.

"Where railroads are laid lengthwise upon a street or highway it is not unlawful for common vehicles to travel upon a track across it or lengthwise. The company has the exclusive right to the track while its cars are passing, but such right is not otherwise exclusive." *Hogen v. Eighth Ave. R. R. Co.*, 15 N. Y. 380, Paige, J. *Adolph v. C. B. N. & E. B. R. R. Co.*, 76 N. Y. 530.

For railroads to use upon streets the "most unfit rail for the convenient use of vehicles ever devised," is an imposition upon the public and an unlawful intrusion upon their rights in streets. The tram rail is a good practical rail for railroad use, and is a much better rail than the centre-bearing rail for the street as a highway for vehicles. It permits of more compact paving and offers less obstruction to wheels. An examination of the tram rail wherever used, for instance, in Chambers street, New York, or on Washington avenue, Albany, is enough to satisfy any reasonable person as to these points. Indeed, outside of New York and Brooklyn the tram rail is almost exclusively used. Having a well-known rail, therefor in extensive use, that fairly satisfies as well the railroad need as public requirements, there seems to be no good reason for not enforcing its substitution for the objectionable centre-bearing rail.

There are various objections to the grooved rail about which we cannot now judge, and, hence, to compel its use would not be wise. It is said that abroad it is mainly used and with great success. Our conditions of climate are so different here as to make foreign experi-



ence of little value to us. Our own experience is against it. As very competent experts favor it, and as it would probably obstruct the street less than any other rail, if used, the law ought to freely permit its adoption, subject to the approval of the local authorities.

It is insisted that the Legislature cannot require a change of rail under the Constitution etc.; that specifications in charters or under the action of local authorities constituted contracts and vested in corporations, or individuals, the inviolable right to keep forever a certain kind of rail. I think there is nothing in this objection. The legislative power to regulate such a matter as the public interests may from time to time demand, seems quite clear and hardly open to discussion. It has been suggested that the local authorities also have such a right in New York city. The Board has not had time to examine that question, but suggests that the existence of a doubt about it is a very good reason why the Legislature should pass a proper statute on the subject.

The railroads urge that the centre-bearing rail has been laid with the tacit consent, if not the actual approval, of the local authorities. This seems to be true, and undoubtedly furnishes a good reason for providing a remedy that shall not be unduly harsh in its operation. Because the Legislature or the local authorities have permitted railroads to select and use a certain form of rail it does not follow that under their authority such rail ought not to be changed when it is ascertained to be defective and unsuited for use in streets.

Again, the railroads of New York city and Brooklyn insist that the change proposed by this bill would cost them the estimated sum of \$3,700,000. Considerable time would be necessary to determine the accuracy of this estimate. Assuming the estimate to be accurate, however, it furnishes no reason why the change should not be made. It certainly, however, does justify railroads in urging that a year is too short a time in which to compel it.

#### CONCLUSION.

Considering all of the facts and circumstances surrounding the question, the proposed act ought to provide that hereafter no centre-bearing rail shall be laid by street railroads in any new construction; also, that where now laid, twenty per cent thereof shall annually hereafter be taken up and be replaced by the "tram" rail, or some other kind of rail not the centre-bearing, such tram or other rail to be in all cases approved by the local authorities.

An act embodying these views is herewith submitted.

Attest:

WILLIAM C. HUDSON, *Secretary*.

#### AN ACT in relation to the rails of street surface railroads in cities of this State.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. No street surface railroad shall hereafter lay down in the streets of any incorporated city or village of this State, what are known as "centre-bearing" rails.

§ 2. From and after June 1st, 1887, all street surface railroads owned or operated in any incorporated cities or villages of this State shall, annually, remove from their respective route or routes in said streets, twenty per cent of all "center-bearing" rails and substitute in place thereof the tram or some other kind of rail not the "centre-bearing" rail. Such "tram" or other rail to be in all cases approved by the local authorities, and such rail to be of such shape and to be so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange of the car wheel.

§ 3. The local authorities in such cities and villages of this State are hereby charged with the responsibility of enforcing the provisions of this act. In any city the common council, acting subject to the power now intrusted to the mayor to veto ordinances, and in any incorporated village the board of trustees, shall be the local authorities mentioned in this act. Provided, that where in any city the exclusive control of streets is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this act.

§ 4. This act shall take effect immediately.

Commissioner O'DONNELL—The purpose and object of the bill under consideration is to compel the street surface railroads of the city of New York and other cities having a population in excess of 500,000, to remove from their routes all "centre-bearing" rails and substitute in their place "tram" or "groove" rails to be laid flush with the pavement of the carriage-way of the streets, and the commission of public works, or of city works, as the case may be, in said cities, is charged with the enforcement of the act.

The Honorable the Railroad Committee of the Assembly referred the bill to this Board "to examine and report their opinion as to the same."

A hearing was had April 12, at which time Hon. Mr. Shea and Hon. Mr. Ives, members of the Assembly, appeared for the bill, and representatives of all the street railroads of New York and Brooklyn, and Hon. Mr. Graham member of Assembly, against it.

A letter was also received from his honor, the Mayor of New York city, which accompanies this report. It will be noticed that his honor is strenuously in favor of a grooved rail—not a tram rail.

That a tram rail would, in one important respect, be better than the centre-bearing rail as it exists in New York city to-day, I have no doubt, but if the city authorities of New York and the railroads did their duty in taking proper care of the pavements of the streets adjacent and next to the rails now in use, there would be but little, if any more, obstruction to vehicles than with a "tram" rail. I infer from the silence of his honor, the Mayor, upon the subject of a "tram" rail, and his strenuous advocacy of a "grooved" rail, that he is not favorable to a "tram" rail under any circumstances.

My colleagues in the Board, in their report and in the bill presented by them as a substitute, adopt substantially the "tram" rail, and seek to compel all railroads to adopt it. If it was a settled fact that the "tram" rail was the best rail in use, the case would be very different. The public who travel over street railroads, and streets on which rails are laid, are entitled to the very best accommodations; but there is no standard rail, and such an important and costly change ought not to be made except for the best of reasons, and then with a clear conception of the best rails for street railroads. There are many arguments in favor of a "grooved" rail—the kind of a rail generally in use on the continent. Such a rail would in no case obstruct vehicles,

and this really is the main complaint against the centre-bearing rail. That this complaint is well founded there can be no doubt. In fact, on many streets in New York, a casual observer would see that the centre-bearing rails were purposely placed higher than the pavements. It is alleged that this is done for the express purpose of keeping vehicles off the railroad track, thereby hindering the free use of the streets for vehicles. Unless it be a settled fact that the "tram" rail obviates these objections, and is the best rail for street railroads, it seems to me that the Board is not justified in imposing a burden on the railroads, which, in New York and Brooklyn alone, will amount to nearly \$3,000,000. It is true, if the public welfare demands this change, then after a standard rail is adopted it should be made, although it should not be forgotten that such an expense would inevitably postpone the time when the fares shall be reduced, and a proper transfer system adopted by the railroads of New York and Brooklyn.

The proposed act, in the bill prepared by my colleagues, also applies to all "incorporated cities or villages in the State." While certain street roads in New York and Brooklyn might be well able to bear this expense, to roads in the suburbs of those cities, besides in other cities and villages, it might be a great hardship. At least I am unwilling to initiate such legislation until there shall come a public demand from these other cities and villages.

That there is a pressing and almost universal demand from the lower part of New York city for relief from what is almost a public nuisance, the present street rails, there can be no doubt. The remedy for all this is, in my opinion, intimated but not clearly stated by his honor, the Mayor. He says, "the first grants were made to the Sixth Avenue Railroad Company and the Eighth Avenue Railroad Company in 1851. In the resolution it was specified that the rails 'shall be laid even with the street surface with grooved rail or other rail approved by the street commissioner, upon a concrete foundation.'" It also provides "that the rails should be taken up at the companies' expense when required by the city. The next grants were made to the Second Avenue Railroad Company, and the Third Avenue Railroad Company, on the 31st of December, 1852. In the grant to the Third Avenue Railroad Company, grooved rails are distinctly specified, and I think the same language is used in the grant to the Second Avenue Railroad Company. But in both of these cases any other rail which may be approved by the common council and the street commissioner might be laid." Continuing, his honor says: "So far as I can understand the law, I believe the control of the kind of rail to be used is to-day vested in some cases in the department of public works, and in other cases in the department of public works and the common council." It may also be stated that many of the roads both in New York and Brooklyn are obliged to pave two feet outside of their tracks, and generally to keep the pavement in good order. At the hearing before the Board it was generally conceded that where the street pavement was in good order and laid flush with the rail, that there was no serious objection, except such as would apply to any rail, except the grooved rail, urged by his honor, the Mayor.

The question again recurs, why have not the city authorities enforced the law relating to those street railroads? Why seek a change of rails, the ultimate approval of which, in the bill under considera-

tion, as well as in the bill proposed by my colleagues, rests with the department of public or city works, or the local authorities, exactly as in the present law? What guarantee have the people of these cities that a new law, to be approved by these officials, will be any better enforced?

This duty, hitherto neglected by the city authorities of New York and Brooklyn, should be enforced in any bill. The streets should be put in order, and whatever duties are imposed on the street railroads in their charters should be enforced. One of these duties, generally, is to pave the streets in proximity to the rails to be approved by certain city authorities. In some cases this has been shamefully neglected. Uneven places, ruts and broken pavements impede vehicles, and damage the public generally. The remedy for this neglect lies not in new legislation, but in the enforcement of the law.

The common complaint all over the State is that laws which only affect the public good are neglected, while a trespass upon individual right is speedily settled in a court of justice. The every-day violation of a statute dulls the public conscience. Particularly is this so when wealthy corporations and high city officials are the offenders. The citizen who complains must do it at his peril and at his own cost. Penalties generally for violations of law where the public good is at stake should be severe, and the citizen should not be obliged to defray his own expenses in a prosecution. It appears to me that the first duty, whether the bills become laws or not, is to see that the present law relating to the proper pavement of the street, so far as street railroads are concerned, be enforced, and to secure this end I have prepared a bill which is herewith submitted.

It also appears that there is no recognized standard street rail. The rails in common use are the grooved rail, the center-bearing rail and the tram rail. As to which is the best there is a wide disagreement. Hon. Mr. Graham, member of Assembly, said to the Board at the hearing: "If you take the tram rail, the old flat rail, and pave your streets up close to it, all the dirt of the street centers on that rail, and you will have a quarter of an inch of dirt on the rail, and that makes it very hard riding, because the car will shake and the people who are riding on the car will feel that they are riding on a bad rail when there is nothing the matter with the rail but this dirt on the track. On the Myrtle avenue line and on the Flatbush avenue line, where the center-bearing rail is used and where the street is paved properly, you hear no complaint."

If the streets of these cities are at once properly paved with a pavement flush with the rail it will be no great hardship to wait until the question of a standard rail is determined, and until the meeting of the next Legislature. With this in view I have prepared another bill making a commission composed of the mayors and presidents of the board of aldermen of New York city and Brooklyn, the commissioner of public works of New York city, and the commissioner of city works of Brooklyn, and the State Engineer to report the best rail for street railroads to the next Legislature, which is herewith submitted.

Attest:

WILLIAM C. HUDSON, *Secretary.*

**AN ACT to provide for a commission to determine a standard street rail, and to define the duties of certain city officers.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The mayors and presidents of the board of aldermen of the cities of New York and Brooklyn, the commissioner of public works of New York city, the commissioner of city works of the city of Brooklyn, and the State Engineer and Surveyor, are hereby constituted a commission whose duty it shall be to examine the various rails used in the construction of surface street railroads, and to determine which is best, and to determine what, if any, change should be made in the street surface railroads of the cities of the State, either in the rails or mode of construction, and report their conclusions to the Legislature at the opening of the next session.

§ 2. This act shall take effect immediately.

**AN ACT to define the duties of certain city officers.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any officer of any city in the State having charge of the streets of such city, or any part thereof, or whose duty it is to enforce any law or city regulation relating to the pavements of the streets of such city, or the officers of any street surface railroad, who shall omit or neglect to do any act required by statute, or obey any rule or regulation of any such city authority, duly exercised, after due notice, and wilfully shall be liable to a penalty of not less than one thousand dollars nor more than five thousand dollars, for each and every offense, to be sued for and collected by any citizen of such city, in any court of competent jurisdiction, and the court, on the receiving and payment of such penalty, shall pay over one-half the amount so received and paid to the party first complaining.

§ 2. This act shall take effect immediately.

Attest:

WILLIAM C. HUDSON,  
*Secretary.*

. IX.

**REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED "AN ACT IN RELATION TO RAILROAD CORPORATIONS," REFERRED TO IT BY THE GOVERNOR FOR OPINION.**

**STATE OF NEW YORK:**

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, May 17, 1887.

*To the Governor of the State of New York:*

After having had a public hearing thereon, the Board herewith returns an act entitled "An act in relation to railroad corporations."

The objects of this act are to permit adequate compensation and the use of improved motive power for railroads now or hereafter organized where they overcome such elevations as are mentioned in the first section of the bill. For such an act there is an existing public necessity, and, until the passage of such an act, capital, under existing laws, would not be willing to construct railroads which are needed to reach the summits of many of our mountain ranges. Were such railroads in



existence such summits would be largely used as summer resorts, with great benefit to the public. The only law, except the General Railroad Act, under which such roads can now be built and operated is chapter 697 of the Laws of 1866, as amended by chapter 422 of the Laws of 1884. This latter law is so framed as to permit the building of such railroads, and to provide compensation for their operation in a very restricted manner, and, therefore, does not meet the public necessity which the present act is designed to meet. In the proposed act there are, however, the following crudities and imperfections to be observed: The last part of section one is made applicable to railroads exclusively operated by locomotives; it ought to be applicable to railroads operated by locomotives or any other motive power. Since such railroads may use "any motive power or powers," under section two of the bill, there would seem to be no reason why they should also not be permitted to charge ten cents per mile, as well as railroads so exclusively "operated by locomotives." The third provision of section one also permits the charge of ten cents per mile where railroads overcome an elevation of 200 feet to the mile for at least two consecutive miles. This would not be a proper provision and might improperly increase existing rates upon railroads were it not for the restriction which provides that it shall only apply to railroads which do not exceed twenty miles in length. In view of this restriction the Board does not deem that any great abuse can arise from the approval of the act.

In the second section it is provided that, "any such railroad company may discontinue the use of its road for a period not exceeding eight months in each year." Chapter 605 of the Laws of 1886, seems to have already provided for the necessity of any such legislation as this.

On June 8, 1886, the Board returned to your Excellency without its approval, an act somewhat similar to this one. The objections presented by the Board to that act have apparently been removed in the present act.

Attention is also called to chapter 532 of the Laws of 1885, permitting the Kaaterskill Railroad Company, the Catskill Mountain Railroad Company, and the Stony Clove and Catskill Mountain Railroad Company to charge ten cents per mile, upon which statute this Board reported to your Excellency. The rates of fare therein permitted would seem to justify the passage of such an act as this applicable to mountain roads for summer use, which overcome great elevations.

In view of the public benefit to be derived from this act the Board does not deem that the objections that have been pointed out are of so serious a character as to warrant the disapproval of the Executive.

By the Board.

WILLIAM C. HUDSON.

*Secretary.*

## X.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED  
 "AN ACT FOR THE RELIEF OF THE CHATEAUGAY RAILROAD COMPANY  
 AND FIXING THE RATE OF FARE FOR PASSENGERS THEREON," REFERRED TO  
 IT BY THE GOVERNOR FOR OPINION.

## STATE OF NEW YORK :

BOARD OF RAILROAD COMMISSIONERS, }  
 ALBANY, May 17, 1887.

*To the Governor of the State of New York :*

The Board herewith respectfully returns an act entitled "An act for the relief of the Chateaugay Railroad Company, and fixing the rate of fare for passengers thereon."

The first section of the act seems to be entirely superfluous and ought not to have passed the Legislature. As shown by the inspection report of the Board, the road is all laid with steel rail exceeding forty-five pounds weight per yard (see Report of 1885, p. 293). It is not, therefore, now limited as to the weight of engines and the running speed of trains by section 2 of chapter 293 of the Laws of 1879 as amended by chapter 384 of the Laws of 1883. In passing the bill the Legislature seems to have overlooked the amendment of 1883.

The second section permits five cents per mile fare to be charged. The argument in favor of the increase of fare thereby to be allowed is based upon the inadequacy of the passenger travel over the road to pay for the operation of passenger trains. The total number of passengers carried in 1885 was 13,240 ; in 1886 12,093. This is but an average of forty per day in all directions over a road about fifty miles long. It is stated that the road proposes hereafter to run regular passenger trains to accomodate summer passenger travel, instead of simply attaching a car to its freight trains. If it shall render such a service it probably cannot for some time to come afford to do it at less than the rate of fare proposed. A similar act as to fare was passed in 1886 as to the Northern Adirondack Railroad Company. That act furnishes somewhat of a precedent here, although the need of relief in that case was greater than in this. While appreciating the necessity of exercising great care in passing acts of this character, yet in this case the Board cannot see that any injustice to the public would be done were the second section to become a law.

In the lease of the State road from Plattsburgh to Clinton prison, made May 31, 1879, under the authority of chapter 148 of the Laws of 1878, by the Superintendent of State Prisons to the Chateaugay Railroad Company, it is provided that five cents fare may be charged between Plattsburgh and the prison. It follows that under the proposed act the State will be in no different position than under the lease.

It seems to the Board that the bill ought to be amended by striking out the first section, in view of the fact that it is totally superfluous.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*



## XI.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED  
"AN ACT CONFERRING CERTAIN POWERS UPON THE DEPARTMENT OF PUBLIC  
PARKS IN THE CITY OF NEW YORK RELATIVE TO THE TWENTY-THIRD AND  
TWENTY-FOURTH WARDS IN SAID CITY," REFERRED TO IT BY THE GOVERNOR FOR  
OPINION.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, June 23, 1887.

*To the Governor of the State of New York:*

The Board herewith respectfully returns an act entitled "An act conferring certain powers upon the department of public parks in the city of New York, relative to the Twenty-third and Twenty-fourth wards in said city.

This bill is approved by the mayor of the city of New York and the department of parks, representing the local authorities. So far as it is designed to vest in the department of parks and the board of street opening and improvement, the powers generally as to the streets and avenues of the annexed district that the Legislature has heretofore vested in that department as to particular localities, the bill has numerous precedents and there is no opposition to it. There is much objection, however, on the part of property owners interested, to that feature of the bill which provides for an agreement for depressing tracks and changing their grades, etc., between the department of parks and the New York and Harlem Railroad Company.

As a general principle, the bill is undoubtedly objectionable, in that it makes the action of the local authorities dependent upon the consent or agreement of the railroad company, whose interests may be deemed to be more or less adverse to those of other interested property owners. Such questions ought to be determined by public authorities or tribunals before which all property owners, including railroads, could be heard. A general bill, providing that questions of this character should be determined by commissioners duly appointed by the Supreme Court, and whose decisions should be reviewable by that court, was drafted by this Board and recommended to the last Legislature for passage, but was not passed.

Whether in this particular case the provisions permitting an agreement to be made between the railroad company and the city authorities would facilitate the work by obviating difficulties and objections, is a question which, in the short time allowed to it, the Board has not been able to determine.

It may be proper to say that the improvements upon Fourth avenue were made under specific provisions of statutes, such as chapter 880 of the Laws of 1867, under which the local authorities were given entire supervision of the improvements permitted by the railroad company.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XII.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED  
 "AN ACT TO AMEND CHAPTER 135 OF THE LAWS OF 1870, ENTITLED 'AN ACT  
 FOR THE RELIEF OF CORPORATIONS ORGANIZED UNDER GENERAL LAWS,' " RE-  
 FERRED TO IT BY THE GOVERNOR FOR OPINION.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
 ALBANY, June 23, 1887.

*To the Governor of the State of New York:*

The Board herewith respectfully returns an act entitled "An act to amend chapter 135 of the Laws of 1870, entitled 'An act for the relief of corporations organized under general laws.'"

The amendments to the act of eighteen hundred and seventy, permitting trustees or governing officers of any association to amend any informality that may exist in their articles, are not, so far as the Board has been able to ascertain, urged or needed by any such association.

During the pendency of the bill in the Legislature, amendments were sought to be introduced permitting commissioners appointed under the Rapid Transit Act to amend defects in articles of incorporation. These amendments were defeated and since that time no particular interest seems to have been taken in the bill by any one. So far as the Board can ascertain, the bill can do neither good nor harm in its present shape, and no reason seems to exist why it should become a law.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XIII.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED  
 "AN ACT TO AMEND CHAPTER 606, LAWS OF 1875, ENTITLED 'AN ACT  
 FURTHER TO PROVIDE FOR THE CONSTRUCTION AND OPERATION OF A STEAM RAIL-  
 WAY OR RAILWAYS IN THE COUNTIES OF THE STATE' " REFERRED TO IT BY THE  
 GOVERNOR FOR OPINION.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
 ALBANY, June 23, 1887.

*To the Governor of the State of New York:*

The Board herewith respectfully returns an act entitled "An act to amend chapter 606 of the Laws of 1875, entitled 'An act further to provide for the construction and operation of a steam railway or railways in the counties of the State.'"

The passage of this bill is urged by the East Side and Mount Vernon Railway Company, and the Suburban Rapid Transit Company, neither of which has as yet completed the construction of its line, and each of which has laid out for it routes by commissioners appointed

under the Rapid Transit Act. There is much opposition to the bill on the part of property owners interested in the construction and extension of these roads upon such routes heretofore laid out.

The amendments to section eighteen of the Rapid Transit Act relate to proceedings for the purpose of acquiring title to real estate, and to the service of petitions and notices upon property owners. The amendments supply defects in the Rapid Transit Act by adding thereto the exact provisions of the General Railroad Act, and of chapter 232 of the Laws of 1854, amending the same. To such an amendment of the Rapid Transit Act there can be no valid objection raised.

Section two amends section thirty-nine of the Rapid Transit Act by providing a method by which routes laid out by commissioners may thereafter, before construction is completed, be changed and relocated. Under the Rapid Transit Act at present, the route once laid down by commissioners cannot thereafter, by any authority, be changed in any respect. In this the law is defective and fails to meet the necessities of changed conditions, requiring the modification of a route or parts thereof. The General Railroad Act, in section twenty-three, confers this power upon the directors of a railroad company. This amendment proposes to confer it upon the commissioners provided for in the act. The amendment, therefore, is in accordance with the established policy of the State in permitting such changes to be made in reference to the location of railroad routes, and is guarded by requiring that such change shall be made by the commissioners in cases of rapid transit routes instead of by the directors of a corporation. In its general scheme and purpose the Board, therefore, believes the proposed amendment of section thirty-nine to be just and necessary.

There are some objections, however, to be noted:

*First.* The following words, "Provided that the construction or operation of a street railroad is not or shall not be by this law authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on," etc., "be first obtained," it is claimed will repeal, by implication, section 16 of chapter 252 of the Laws of 1884, and permit the construction of street surface railroads under the Rapid Transit Act. Reading these words in connection with the other parts of section thirty-nine, and with the provisions of section sixteen of the General Street Railroad Act, and in the light of the Court of Appeals decision in the matter of the New York Cable Railway Company (4 N. Y. State Reporter, page 308), it is hardly probable that these words will be deemed such a repeal of section sixteen. The objection, however, is suggested as one worthy of executive consideration.

*Second.* Section three of the proposed act gives rise to a very serious objection. It provides that section thirty-nine as amended shall not apply to a large part of the cities of New York and Brooklyn; section thirty-nine being thus repealed, such portions of those cities are left without the necessary provisions of that section. In order to avert this result it is possible that the courts might construe this act as not designing to repeal section thirty-nine as to such portions of those cities, but the natural reading of the bill would be that such repeal is thereby accomplished.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## XIV.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED  
 "AN ACT TO AMEND CHAPTER 140, LAWS OF 1850, ENTITLED 'AN ACT  
 TO AUTHORIZE THE FORMATION OF RAILROAD CORPORATIONS AND TO REGULATE  
 THE SAME,'" REFERRED TO IT BY THE GOVERNOR FOR OPINION.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
 ALBANY, June 23, 1887.

*To the Governor of the State of New York:*

The Board herewith respectfully returns an act entitled "An act to amend chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same.'"

This bill is one of a number recommended to the Legislature by the Board of Railroad Commissioners. Its design is to provide that no director or officer of a railroad corporation shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property, without the issue thereof having been sanctioned by a majority, in amount, of its stockholders. The General Railroad Act requires that an increase of capital stock shall be so approved, and in the judgment of the Board it was proper to recommend that any issue of bonds secured by mortgage of the corporate property should be in like manner approved.

The amendments reading, "to construct their roads across as provided in section 24 of this act," at the beginning of subdivisions five and six of the act, are immaterial. Those amendments were made in the anticipation of the passage of some amendments recommended by the Board to section 24; those amendments were not passed and hence these amendments are without any effect and leave the law as it was.

The words in sub-division five, "but this prohibition shall not affect any special rights heretofore acquired," does not seem in any respect to change the law from what it would have been had this sub-division been re-enacted without such words being therein. To the reservation of any rights, special or otherwise, there can be no objection.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XV.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 391 OF THE LAWS OF 1880, ENTITLED 'AN ACT TO AMEND THE ACT ENTITLED 'AN ACT INCORPORATING THE NEW YORK NORTHERN RAILROAD COMPANY,'" REFERRED TO IT BY THE GOVERNOR FOR OPINION.

## STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, June 23, 1887.

*To the Governor of the State of New York:*

The Board herewith respectfully returns an act entitled "An act to amend chapter 391 of the Laws of 1880, entitled 'An act to amend the act entitled 'An act incorporating the New York Northern Railroad Company,'" passed April 28th, 1886.

The New York Northern Railroad Company was incorporated April 28th, 1866, by special charter, to build a railroad from Schenectady to Ogdensburgh. By section 12 the company is made subject to all the provisions of the General Railroad Act, except the first seven sections. Instead of the provisions of these seven sections the provisions of the special charter are substituted. The main object of this special legislation seems to have been to obviate the necessity of complying with the provisions of the first and second sections of the General Railroad Act, which require that a certain amount, to-wit: \$1,000 per mile of the capital stock shall be subscribed and a certain percentage thereof, to-wit: ten per cent, paid in before incorporation can take place. As the route of the road was expected to be laid out through the Northern Wilderness, it was probably not deemed practicable to obtain the incorporation of a company under these provisions of the General Railroad Act which required such subscription of capital and payment of percentage. Under the provisions of section 1 of the special charter, more latitude is given to the directors in locating the route than they would have were they directors in a corporation organized under section 1 of the General Railroad Act.

Chapter 314, of the Laws of 1871, extended the time for the commencement of the road until April 28th, 1876, and for the completion of the road until April 28th, 1881. Chapter 391, of the Laws of 1880, extended the time to commence construction until April 28th, 1886, and to complete the road until April 28th, 1891. The act herewith returned proposes further to extend the time for completing and extending the road.

There does not seem to be any particular objections to the proposed act except the general inadvisability of keeping alive charters granting special privileges, where the general statutes of the State cover all requirements.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## COMPLAINTS

OF CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

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### I.

EDWARD COMSTOCK, MAYOR OF ROME, v. THE NEW YORK CENTRAL AND HUDSON RIVER AND THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANIES.

September 20, 1886.

The common council of Rome passed a resolution declaring that Harrison street in that city should be opened and extended over the tracks of the New York Central and Hudson River railroad and the Rome, Watertown and Ogdensburgh railroad, and under the terms of the resolution the mayor of the city appealed to the Board.

The Board replied that this case seemed to be covered by chapter 62, Laws of 1853, and was, therefore, a subject over which the Board had no jurisdiction.

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### II.

CITIZENS OF UTICA v. THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

October 1, 1886.

This was a complaint of the manner in which a branch of the New York, Ontario and Western Railway Company, through Jay street in the city of Utica, was maintained, in failing to board between the tracks, in running trains at too high a rate of speed, putting in switches so as to monopolize the whole road, permitting the locomotives to make disagreeable noises, allowing cars to stand a long time on the tracks, etc.

The matters complained of seeming to be peculiarly within the province of the municipal authorities of Utica, the papers were referred to the common council of that city, and the complainants so informed.

## III.

## BEN SCOTT v. THE DELAWARE AND HUDSON CANAL COMPANY.

October 1, 1886.

Ben Scott of Eden Mills, Vermont, complained that as he was alighting from the train which arrived at Saratoga at 9 A. M. from Schenectady, leaving there at 7:50 A. M., on June 23d, 1886, he was attacked by five men and robbed of \$100. He further complained that there were no police at the station at the time; on taking the train at 10 A. M. for Rutland, Vermont, he discovered the five men, and that though he informed the conductor and trainmen, no effort was made to arrest the thieves.

An investigation elicited the fact that two policemen were on duty at the depot at the time the train arrived at Saratoga from Schenectady; also that the company's officers at Saratoga directed their detectives to assist the complainant to identify his assailants, but in this he could not assist them; that of the five persons on the train ticketed for Rutland one was known to the official, a charge against whom would be ridiculous, and as to the other four, Scott could not identify them as being of the party of five who assailed him.

## IV.

## MILTON BROWN AND COMPANY v. THE BOSTON AND ALBANY RAILROAD COMPANY.

October 1, 1886.

The complainants, doing business in Buffalo, complained that they had requested the agent of the Boston and Albany Railroad Company to stop thirty-two cars loaded with corn they had shipped to Boston, at East Albany; they claimed that this was a favor extended to shippers by all roads and by the Boston and Albany to favored shippers naming Cutler & Company of North Wilbraham, Massachusetts; the complainants further claimed that the refusal to stop cars for a Buffalo firm, while doing the same thing for a Massachusetts firm, was using chartered privileges obtained from New York to discriminate against the business and commercial interest of this State.

The company denied that it received a direct request from Milton, Brown & Company, but that the agent of the New York Central and Hudson River Railroad Company, from which line the Boston and Albany received the cars made such request. When the agent of the New York Central and Hudson River Railroad Company was told by the Boston and Albany Railroad Company's agent at East Albany, that there was no room in the East Albany yard of the Boston and Albany Railroad Company to hold cars, the New York Central and Hudson River Railroad Company's agent told him to let them go to Boston.



The complainants in reply raised a question of veracity between the New York Central and Hudson River Railroad Company and the Boston and Albany Railroad Company's agent as to the instruction to forward the cars to Boston and cited copies of telegrams to show that they had made direct requests to ship various cars in different directions.

At this point the Board wrote to ask the complainants whether they had "any facts justifying (their) allegations of discrimination in favor of Cutler & Company other than those mentioned in (their) last communication, \* \* \* or any other party outside the State against (them) or any other Buffalo firm. And if so to send such evidence to the Board."

Also the Board inquired whether the complainants desired a hearing on the facts presented.

On September 27, 1886, a reply to this communication was received, saying that a definite reply would be made in a few days.

Since then nothing has been heard from the complainants.

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## V.

### JOSEPH A. FRISBIE ET AL. v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

October 5, 1886.

This was a complaint preferred by Joseph A. Frisbie, Lamotte Blanchard, and R. H. Meagley, under their firm name of Frisbie, Blanchard and Company, Binghamton, against the New York, Lake Erie and Western Railroad Company. The complainants are coal merchants, buying and selling at wholesale. The allegation was that defendant's company had leased a line running from Susquehanna upon its main line to Carbondale in the State of Pennsylvania, where it made a connection with the Delaware and Hudson Canal Company, which in its turn, after running thirty miles to the south, made a connection with the Central Railroad of New Jersey at Mill Creek; that the New York, Lake Erie and Western Railroad Company, under a contract existing between itself and the Delaware and Hudson Canal Company, was empowered to fix the rates for the transportation of coal to any point on its own line from any point on the line of the road or leased lines, including those with which contracts existed, of the Delaware and Hudson Canal Company; that acting under this contract the New York, Lake Erie and Western had at various times fixed rates and had furnished cars for the transportation of coal from the collieries south of Mill Creek; that the complainants had purchased from the Red Ash Coal Company, owning collieries three or four miles from Mill Creek and on the Central Railroad of New Jersey, fifty thousand tons of coal, and had applied for rates and cars for transportation to the New York, Lake Erie and Western Railroad Company from Mill Creek to various points on the New York, Lake Erie and Western Railroad, as were furnished other coal merchants, but were refused because Mill Creek was not on defendants' line, and, as complainants averred, for the purpose of excluding the complainants

from the markets in the interest of more favored dealers; that prior to this transaction a small amount of coal was shipped by the complainants, the charges for which were exorbitant, and were paid only under protest—charges in excess of those paid by others, so much so as to amount to discrimination against the complainants; that the custom in the sale of coal is that the coal is sold before it is shipped, and that therefore it was necessary before this fifty thousand tons could be sold that the rates should be known and that the refusal of the New York, Lake Erie and Western Railroad Company to furnish a schedule of rates or cars to transport the coal was prejudicing the complainants and preventing them from selling the coal they had purchased. They prayed for relief.

For answer, the New York, Lake Erie and Western Railroad Company set up the claim that the matter of the complaint was not within the jurisdiction of the Board in that, first, the traffic referred to in the complaint, originated in the State of Pennsylvania, not upon the line of the defendants' road, and that the transportation desired was over two railroads, the Central Railroad of New Jersey, and the Delaware and Hudson Canal Company, both of which lay wholly without the State of New York—without the district of jurisdiction of the Board; and, second, that as far as the defendant company was concerned, the matter was one of inter-State Commerce, the transportation desired being from a point in the State of Pennsylvania to points in the States of New York and New Jersey. While deeming the above reasons sufficient the company made the further essential point that the contract alleged to exist between the New York, Lake Erie and Western Railroad, and the Delaware and Hudson Canal Companies, whereby the former company was empowered to make rates from any point on the line of the latter company to any point on that of the former, had terminated more than a year prior to the date of complaint and at the date of complaint did not exist; and further, that the application for rates was not made in good faith by the complainants.

The reply of the complainants was that if the contract between the defendant company and the Delaware and Hudson Canal Company had terminated a year previous, it was their information and belief that it had been renewed, and that the complainants would prove that subsequent to the alleged termination of the contract the defendant company had given rates to other shippers. They denied that the application for rates was not made in good faith, and in respect of other matters the complainants re-stated their grievances.

The Board, setting aside for the time the claim of the defendant company of no jurisdiction on its part, addressed a communication to the New York, Lake Erie and Western Company in which, referring to the urgency of the complainants that they were acting in good faith in demanding rates, said:

"They (the complainants) insist that they have secured and stand ready to ship 50,000 tons of coal from Mill Creek. The Board, therefore, suggests that the company make further inquiry; and if satisfied that the complainants are ready to ship as they assert, and hence are acting in good faith, that they be given the same rates and facilities as are given to others under like circumstances, thus avoiding the charges of discrimination made and further consideration of the matter by this Board."

To this the President of the New York, Lake Erie and Western Railroad Company replied still refusing to admit the jurisdiction of the Board, that

"If the complainants \* \* \* actually have, and are ready to ship, in good faith, 50,000 tons of coal from Mill Creek, this company (New York, Lake Erie and Western Railroad Company) will be glad to give them rates for the same; provided, however, the shipments can all be made prior to September first, next, as after that date, owing to engagements already made, this company (the New York Lake Erie and Western Railroad Company) will be unable to furnish cars for shipments from points off its line."

The complainants objected to the limitation of time contained in the proviso of the above, which fact being conveyed to the defendants, the President of the New York, Lake Erie and Western Railroad Company expressed himself as willing to carry coal for the complainants until October first, and after that time, provided it had sufficient cars for the purpose, but that owing to press of business at that season of the year he could not absolutely guarantee to furnish cars to shippers not upon his line.

Through a telegraphic correspondence which followed these exchanges, the complainants agreed to the proposition of the New York, Lake Erie and Western Railroad Company and the parties met to give and receive the rates.

The matter, however, was not accommodated, as it appeared. Three weeks subsequent to the meeting, the complainants again appealed to the Board, alleging that they had discovered in the schedule given them, that they were discriminated against at many points, in fact barring them from the markets at those points; that since the giving of the schedule, the defendants had notified the complainants of an advance of rates to Rochester, Lockport, Buffalo, Niagara Falls, etc., which advance rates were not charged to other dealers than the complainants; and further, that by a combination among the several carriers, each carrier was allotted a certain amount and could carry no more; that the coal from the Red Ash Colliery had been carried upon the allotment of the New York, Lake Erie and Western railroad, and that the Central New Jersey, refusing to carry it other than it had heretofore been carried, the New York, Lake Erie and Western Railroad Company had refused to carry the complainants' coal on its allotment, whereby the complainants were unable to get their coal, which had been sold to various points upon the line of the New York, Lake Erie and Western railroad, moved, and were unable therefore to make further contracts of sale, and claimed that a disagreement between the Philadelphia and Reading, and the New York, Lake Erie and Western roads should not be permitted to operate to their prejudice.

The New York, Lake Erie and Western Railroad Company still claiming the non-jurisdiction of this Board, denied that there was discrimination in the rates given complainants and asserted that the same notice was given each shipper; it asserted also that the complainants had failed to ship any coal whatever and offered as excuse that the Philadelphia and Reading Railroad Company refused to load their cars for delivery to the New York, Lake Erie and Western Railroad Company, and the New York, Lake Erie and Western Railroad Company further asserted that if this were so, the shipments were

prevented by a railroad company outside the State; it also alleged that the refusal of the Philadelphia and Reading Railroad Company affected all shippers over the New York, Lake Erie and Western Railroad Company's line as well as the complainants, and that therefore the New York, Lake Erie and Western Railroad Company in its own interest had made every effort to overcome the difficulty; and that only within the past few days had the difficulty been accommodated.

The complainants' reply was that while the same notice of advance of rates had been given other shippers as well as themselves, a notice of rebates had been given other shippers which had not been given them, whereby they were so disadvantaged that they could not compete with the favored shippers, and that therein lay the reason why they had not shipped their coal; that the difficulties between the New York, Lake Erie and Western Railroad Company and the Philadelphia and Reading Railroad Company, whereby the latter company would not load coal for delivery to the New York, Lake Erie and Western Railroad Company was of the New York, Lake Erie and Western Railroad Company's making, in abandoning the agreement existing between them. The complainants therefore pressed for an investigation.

A date for a hearing was thereupon set by the Board but postponed two weeks upon the application of the New York, Lake Erie and Western Railroad Company because of the absence of the Vice-President, Mr. Felton. Before the postponed date was reached, the complainants having received a new schedule of rates sent out by the New York, Lake Erie and Western Railroad Company, and having expressed satisfaction with it, an indefinite postponement was effected, and as no application has since been made by the complainants, the Board presumes that all difficulties have been amicably settled.

## VI.

### TRUSTEES OF THE VILLAGE OF FORT EDWARD V. THE GLENS FALLS, SANDY HILL AND FORT EDWARD STREET RAILROAD COMPANY.

October 12, 1886.

The complaint alleged that when the consent of the trustees of the village was given to construct, operate and maintain a railroad, to the defendant company, it was under the condition that it should run a car "at least once every hour each way between the hours of six o'clock in the morning and nine o'clock in the evening, over so much of the road as lay within the village limits." That the company began the operation of its line about November, 1885, and that it starts a car from Glens Falls to Fort Edward at 6 o'clock A. M. arriving at Fort Edward at 7 o'clock A. M., leaving again for Sandy Hill at 7:30 A. M.; that this operation was in violation of the agreement by which the consent was obtained, and that a number of residents of Fort Edward were greatly incommoded by the failure to run a car to leave Fort Edward at 6 o'clock A. M.

The company replied that the present corporation had only been in control of the road for six months, and it was unaware that the company was not living up to its agreement; that it had determined to start a car from Glens Falls at 5:45 A. M., thus enabling it to start on

its return trip from Fort Edward, at 6:30 A. M., which, in the judgment of the company, would suit the people of Fort Edward better than 6 A. M.

With this the trustees were not satisfied, alleging that the residents of Fort Edward who were compelled to reach their places of business at 7 A. M. at the mills, shops and quarries along the line, were not accommodated by a car leaving Fort Edward at 6:30 A. M., and would only be when a car left at 6 A. M., and they demanded that the company should live up to its stipulation.

On October 12, 1886, after much correspondence, a hearing was given by the Board at its office in Albany, at which testimony was taken. At the conclusion of the hearing an agreement between the parties was entered into, by which the company was to run a car for thirty days at 6 A. M. from Fort Edward, to test the truth of a statement made on behalf of the trustees, that so large a number of passengers desired a car at that time that the trip would pay—a statement flatly opposed on behalf of the company. If at the expiration of thirty days, the company refused to continue the cars and the trustees thought the record of travel justified its continuance, the trustees were again to appeal to the Board.

Eleven months have elapsed and nothing has been heard from the trustees. It is therefore assumed by the Board that the matters at difference have been satisfactorily settled.

## VII.

### IN THE MATTER OF THE MERCHANTS' ASSOCIATION OF JOHNSTOWN V. THE FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD COMPANY.

October 12, 1886.

These complainants allege that the railroad company has failed to conform to the recommendation of this Board of May, 1883 (1st Annual Report, page 154), in that it has not adopted a printed tariff of rates, and does not give back charges separate from those of the Fonda, Johnstown and Gloversville railroad.

As already said in the case of Streeter Bros., the officials of the road insist that it *has* done so; that the tariff sheet is always ready for inspection, and that customers are immediately informed when changes are made.

There is some conflict of statement on this subject; the Board, therefore, again recommends that the road adopt a printed tariff of rates; that it supply a copy of same to all asking for it, and that when changes are made it promptly notify its regular customers.

With regard to the failure of the road to give back charges separate from those of the Johnstown, Fonda and Gloversville road, the Board refers to the case of Streeter Bros. of this date, and repeats its recommendation, *i. e.*, that bills be made out distinctly, giving back charges separate from those of the Fonda, Johnstown and Gloversville Railroad Company.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

The recommendations of the Board have been complied with.

## VIII.

## MANN BOUDOIR CAR COMPANY v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

October 26, 1886. •

The allegation was that the Mann Boudoir Car Company chartered a private car to a gentleman for a western trip. Upon applying for rates to the New York Central and Hudson River Railroad Company, the company declined to haul a Mann car, and suggested that the gentleman engage a car of the New York Central Sleeping Car Company; the complainant appealed for relief from what he deemed to be improper discrimination.

In reply, the New York Central and Hudson River Railroad Company, by its President, said that the assistant general passenger agent was in error in declining to haul the Mann car and that a contract would be made with anybody who might wish a car hauled.

## IX.

## G. M. SWEET ET AL. v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

October 28, 1886.

Mr. Sweet and others complained that the Rome, Watertown and Ogdensburgh company had not furnished the farmers, whose land the road divided, with the "farm-crossings," "cattle-guards" and "gates," required by law.

The company replying noted that the company was not required to furnish "cattle-guards," but admitted that the farm-crossings had not been put in as fast as the farmers wanted, owing to the employment of the force in ballasting the road, raising the tracks, etc. Since that time, however, this work had progressed and the complainants' crossings were made.

The complainants are apparently satisfied.

## X.

## W. O. McDOWELL v. THE NEW YORK AND SEA BEACH RAILROAD COMPANY.

November 3, 1886.

The complainant, who had been Vice-President and General Manager of the company complained against, averred that reports of the company for the years ending September 30, 1883, 1884 and 1885, were not correct, and asked to be relieved from all responsibility therefor.

The Board began an inquiry into this alleged state of facts and a vast mass of documentary evidence, *pro* and *con*, was submitted to the Board.

On June 22, 1886, at a hearing in New York city, the Board made an order that the accountant should investigate and make up the

accounts for 1883, 1884 and 1885, so that net earnings would be determined by taking the gross earnings and receipts of the railroad, boats and other sources of revenue, and deducting therefrom the operating expenses of railroads and boats.

The accountant reported on June 26, and the copies of the report were by order of the Board, sent the complainant and defendant, with the request that they send suggestions to the Board relative to the report as might occur to them. Both parties expressed satisfaction with the report, and on June 30, the inaccuracy of the reports then on file with the Board having been established, the Board made the following order, September 30, 1886:

"That the New York and Sea Beach Railroad Company make out and forward to the Board within thirty days, amended annual reports for the fiscal years ending September 30, 1883, 1884 and 1885, in accordance with the distribution of items as made by the accountant of the Board."

This order having been forwarded to the company, it made application through its managing director for an extension of time in which to file such amended reports. On November 3, the Board extended the time until April 1, 1887.

## XL

### IN THE MATTER OF THE COMPLAINT OF THE HON. I. H. MAYNARD V. THE ULSTER AND DELAWARE RAILROAD COMPANY.

November 3, 1886.

This complaint was lodged with the Board in the early part of February, 1886; it was transmitted to the road and an answer received thereto which was transmitted to the complainant.

A hearing was had at Albany on March 16, in which the complainant was represented by himself, the railroad company by the Hon. Augustus Schoonmaker. At the request of the complainant further hearings were had at Rondout on June 10 and June 29, 1886. A vast amount of testimony was taken and the affairs of the Ulster and Delaware railroad most thoroughly investigated from the time of its re-organization in 1875.

In addition to the original complaint set forth, the complainant, in the course of the hearings, alluded to many other transactions from which he apparently desired the Board to draw inferences unfavorable to the management of the railroad company.

A final hearing was set down at Albany on September 22, 1886, at which notice was given that final arguments would be heard from both sides as to the points that it was desired the Board should pass upon. A letter was received from the complainant, however, stating "I have concluded to submit the case to your Board for final action upon the proofs already in, if such a course is agreeable to the railroad company; even if the company should desire to take further evidence and should be permitted to do so, I am satisfied for my part to submit the case without oral argument as your Board is already in possession of all the material facts bearing upon the case." Judge Schoonmaker for the railroad appeared at the hearing and submitted further evidence and an oral argument; Judge Maynard was represented *pro forma* by E.



A. Bedell, Esq. At the conclusion of the hearing Commissioner Rogers made the following order: "Judge Schoonmaker will submit a brief covering the points which he wishes the Commission to pass upon in behalf of the railroad company and Mr. Bedell, representing Judge Maynard, will communicate with him, giving him an opportunity to submit such brief as he desires by Tuesday, October 12, 1886." No brief has been submitted by the petitioner; the Board, therefore, restricts its findings to the specifications made in the original and only written complaint of Judge Maynard.

The complaint was as follows:

*"To the Board of Railroad Commissioners of the State of New York:*

"The petition of Isaac H. Maynard respectfully shows that he resides at Stamford, Delaware county, New York; that he is the owner, in his own right, of \$16,200 of the capital stock of the Ulster and Delaware railroad, \$15,300 of which has been transferred upon the books of the company, and \$900 of which is held by him, but not transferred; that he is also the owner and holder of \$21,700 of the second mortgage income bonds of said railroad, and that he is the agent and attorney of Margaret M. Maynard, who is the owner in her own right of \$1,600 of the stock of said company, and \$2,200 of said second mortgage income bonds; that said bonds were issued on or about July 1, 1875, and no interest or dividends thereon have been paid; that he has received from the clerk of the Board of Railroad Commissioners what purports to be a copy of that part of the annual report of said company filed in the office of the Railroad Commissioners for the year ending June 30, 1885, so far as it relates to the financial operations and status of said company, and including tables A, B, C, D, E. and part of table G, and your petitioner alleges that such report is false, fictitious, incorrect and erroneous in the following particulars:

"*First.* It is stated, under the head of 'funded debt' of the company, that there is a real estate mortgage, dated April 1, 1878, given for the term of five years at a rate of interest of seven per cent, payable semi-annually, which is still outstanding, and that the payment thereof has been extended by mutual consent; and on page five, under the head of 'interest paid on funded debt due and accrued,' is the sum of \$17,500, which must include interest on this \$50,000 real estate mortgage at seven per cent per annum; that after April 1, 1883, when this mortgage by its terms became due, interest could not be lawfully charged or paid thereafter at a greater rate than six per cent per annum, even if payment of the principal was extended by mutual consent; that on and after January 1, 1880, the lawful rate of interest in the State of New York on all obligations, whether theretofore or thereafter executed, from and after the time such obligation became due, was only six per cent; and such report should be corrected by making the rate of interest of said real estate mortgage six per cent, after April 1, 1883, and the interest paid thereon annually \$3,000, instead of \$3,500; that in said report payment of interest of said real estate mortgage is given preference over the payment of interest on the second mortgage income bonds, which had been previously executed, and which, by the terms of said second mortgage income bonds, is entitled to be first paid before payment out of the income of the company can be paid upon said real estate mortgage.

"*Second.* The said report in table C, page five, charges as having been paid out of the income of the company the sum of \$24,099.11 discount and interest, which, as the income account is made up for said year, is given preference over the interest payable out of such income upon said income bonds; that by the terms of said second mortgage the earnings out of which this \$24,099.11 is paid, are first pledged to the payment of interest upon said bonds, and no payment on account of interest upon any other indebtedness can be lawfully made until the full amount of interest due upon said income bonds has first been paid; and said account should be corrected by striking out from said table C said sum of \$24,099.11, and by increasing the balance of net income from all sources, stated on that page, by that sum.

"*Third.* That there is in table C, page five, an item of \$33,481.64, which is taken out of the net income from all sources, and which merely states that it is 'for adjustment of

construction and equipment account, and operating expenses for current year,' that this item is purely and utterly false and fictitious; that the operating expenses are given in detail at pages seven and eight, and aggregate a grand total of \$205,309.37, being nearly seventy per cent of the gross earnings, and that entire sum is taken out of the gross earnings in table C, at page five; and the aforesaid item of \$33,481.64 should be stricken out of the account entirely, and the surplus increased for the year ending September 30, 1885, by that amount.

"*Fourth.* That by the annual report of the company for the year ending September 30, 1884, there was surplus to the credit of income account of \$141,712.87, as will appear by page six of the present report, and which, with the surplus as shown by the present report, as it is now made up, of \$24,527.90, makes the total surplus of the income account \$166,240.77; that there is taken from this surplus the sum of \$146,915.15, which it is stated in the report is 'for adjustment of construction and equipment accounts and operating expenses to September 30, 1884;' that this item is purely false and fictitious, and should be stricken out, increasing the total surplus September 30, 1885, by that amount.

"*Fifth.* That, under the head of 'current assets,' it appears that there are materials and supplies on hand to the amount of \$29,782.73, and your petitioner alleges that that sum is not included in the earnings of the company and should be added to the surplus on hand September 30, 1885; and that the other items on page nine under the head of 'current assets,' and which, with that item, makes \$34,517.72, should also be added to the surplus, unless it is made to appear that they are included in the total of gross earnings.

"*Sixth.* That the amount of the assets stated in table E, page nine, is incorrectly and erroneously stated; that the amount of bonds and stock issued to old bondholders is stated at \$1,744,700, when the amount thereof is \$2,494,700; and so far as any of the bonds and stock issued to old bondholders enters into the amount of cost of the road or equipment, the same should be stricken out and in the statement of liabilities the sum of \$361,937.31 should be stricken out, or at least should be entered as an obligation subsequent to that of the income bonds, and as an obligation, the interest upon which could not be paid until the interest on the income bonds had been paid.

"*Seventh.* That it appears upon page twelve, in table six, that the Hobart Branch railroad, a railroad owned by a separate and independent company from that of the Ulster and Delaware railroad, has been operated by the Ulster and Delaware railroad since December 1, 1884; that no lease has been made and no consideration whatever has been paid on account of same; that the receipts and expenses of operating said Hobart Branch railroad are all included in the earnings and expenses of this railroad company, as shown by this report; that no separate accounts have been kept. Your petitioner alleges that such an operation of the Hobart Branch railroad by the Ulster and Delaware Railroad Company is illegal and unauthorized, and in flagrant violation of the rights of the stockholders and bondholders of the Ulster and Delaware Railroad Company, and that the report of this company should be corrected by compelling the board of directors to account for the expenses of operating the Hobart Branch railroad.

"WHEREFORE, Your petitioner prays that an order may be granted and entered by your Board requiring the Ulster and Delaware Railroad Company and its officers and board of directors to correct their said annual report in the respects and as to matters hereinbefore set forth, so that the same shall conform to the various provisions of law and the regulations of your Board upon the subject, and so that it shall truly, correctly and fully state all the facts and matters relating to the transactions of the company during the year ending September 30, 1885, and especially making the amendments and corrections hereinbefore stated to be necessary in order that it shall conform to the facts and the law applicable thereto; and that your petitioner may have such other and further relief in the premises as to your Board it may seem just and proper to grant.

"I. H. MAYNARD."

The first specification petitions: "That such report (viz., the annual report of the railroad to the Board of Railroad Commissioners) should be corrected by making the rate of interest on said real estate mortgage six per cent after April 1, 1883, and the interest paid thereon annually, \$3,000 instead of \$3,500."

Inasmuch as this rate of interest, viz., seven per cent instead of six, was actually paid, the Board would not be warranted in ordering the railroad company to make a false entry upon its books. Whether or not the railroad company was legally authorized to pay a rate of interest in excess of that prescribed by law is another question and one which the Board is at present not petitioned to rule upon.

The second clause of the first specifications states as follows: "That in said report payment of interest on said real estate mortgage is given preference over the payment of interest on the second mortgage income bonds which had been previously executed, and which, by the terms of said second mortgage income bonds, is entitled to be first paid before payments out of the income of the company can be made upon said real estate mortgage."

It is claimed by the counsel of the railroad that at the time of the negotiation of the income bonds in 1875, a provision was inserted permitting the company to expend \$50,000 annually for improvements and betterments in addition to operating expenses, taxes and interest upon a mortgage debt of \$200,000.

During the year 1878, \$127,000 of first mortgage bonds were negotiated, with the partial proceeds of which the floating debt of the company was reduced \$62,563.65. Interest upon these bonds had been provided for in the contract with the income bondholders; \$50,000 of the proceeds of said bonds were expended for the purchase of this terminal property and a mortgage of \$50,000 was assumed. It might be claimed that the \$50,000 mortgage thus assumed was in lieu of the expenditure of \$50,000 provided for in the stipulation with the income bondholders, for nothing was spent in betterments and additions that year except from proceeds of first mortgage bonds, with the exception of the assumption of this mortgage. In this view of the case, it would appear that the payment of interest upon this mortgage prior to payment of interest upon the income mortgage bonds is a proper payment. Whether or not such view conflicts with the stipulation with the income mortgage bondholders, it is certainly true that inasmuch as the interest was paid, it is not proper for the Board of Railroad Commissioners to order that an entry should be made striking out the record of such payment.

The second specification prays at the end: "That said account should be corrected by striking out from table C said sum of \$24,099.11 and by increasing the balance of 'Net Income from all Sources' stated on that page by that sum." Inasmuch as this sum of \$24,099.11 was actually paid, the Board would not be justified in ordering this item stricken out. As to whether or not the income bondholders were entitled to be paid their interest before this sum of \$24,099.11 discount and interest was paid, is another question and will be considered hereafter.

The third specification petitions: "That the aforesaid item of \$33,481.64 should be stricken out of the account entirely and the surplus increased for the year ending September 30, 1885, by that amount." The explanation of this item was given in full upon the testimony and is as follows: During the year 1885, the railroad company had erroneously charged to construction and equipment account the sum of \$33,481.64, whereas it should have been charged to operat-

ing expenses. Had it been so charged the apparent net income from all sources would have been diminished by just that amount. The correction was made by order of the Board of Railroad Commissioners and was in all respects proper. The items of which the \$33,481.64 consisted were:

Superstructure and iron in repairs.....	\$28,702 19
Water tanks.....	4 45
Locomotives and tenders.....	4,775 00
<b>Making.....</b>	<b>\$33,481 64</b>

The fourth specification is of the same character as that of the third.

The request is made that an item of \$146,915.53, which is subtracted from the surplus account of the company, resulting from the operation of its road during its whole existence, be stricken out.

This sum is made up of items erroneously charged to construction and equipment account previous to September 30, 1884, whereas they should have been charged to operating expenses. The correction was made by order of the Board of Railroad Commissioners and is in all respects a proper one. The items which make up this sum are to be found upon page 1064 of 2d vol., Third Annual Report of Board, and need not be repeated here.

The Board can well understand how a misconception might have arisen with regard to these items in consequence of the brevity of the explanation afforded in the report, but a careful consideration of the entries shows that they are in all respects proper, and work no possible injury to any one. The apparent surplus appearing is the result of the operation of the railroad company for a number of years. It has all been expended, however, upon the property, and much more in addition. The object of keeping the accounts in this way is to show what the profit has been from operation independent entirely of what sums may have been expended for additions to the property and equipment of the road. A careful perusal of the report of the railroad company shows elsewhere the sums expended for additions and betterments.

The fifth specification takes exception to the item of \$29,771.73, materials and supplies, included under the head of assets in the general balance sheet of September 30, 1885, and also to the total current assets of \$84,517.72.

The Board finds that these items are properly entered where they are, and can see no force or, indeed, clear meaning in the objection of the petitioner. It seems unnecessary to attempt a further explanation of these items in the absence of a clear understanding of the objections to their entry.

\*The sixth specification may be subdivided. It is as follows:

*First.* "That the amount of the assets stated in table E, page nine, is incorrectly and erroneously stated; that the amount of bonds and stock issued to old bondholders is stated at \$1,744,700, when the amount thereof is \$2,494,700, and so far as any of the bonds or stock issued to old bondholders enters into the amount of the cost of the road and equipment, the same should be stricken out."

At the time of the foreclosure sale \$750,000 was paid for the property. In addition to the above, stock and bonds were issued to the old bondholders to the amount of \$1,744,700, making \$2,494,700. The \$750,000 is included in the first item of \$1,121,417.89 under the head of assets, in the general balance sheet. It perhaps would have been better to have stated those sums separately, and thus have prevented any confusion upon this matter.

So far as the objection to any of the bonds and stock issued to old bondholders being charged as costs of road and equipment is concerned, it may be stated that it is the universal custom to do so in railroad book-keeping. These bonds and this stock were, in fact, issued to the old bondholders under the re-organization agreement. They, therefore, represent technically the cost of the property to the new organization. This Board, however, has never regarded such bonds and stock as the cash cost of a road in determining any questions as to net income of a road upon capital actually expended. So far as the questions are concerned in this investigation, the objection appears to be a merely technical one and will, therefore, not be considered here.

The second part of the sixth specification is as follows: "And in the statement of liabilities the sum of \$361,937.31 should be stricken out, or at least should be entered as an obligation subsequent to that of the income bonds, and as an obligation, the interest upon which could not be paid until the interest on the income bonds has been paid."

There are two petitions or requests made here: 1st. That this sum should be stricken out by the Board. A moment's consideration will show that such a course would be quite unwarranted. There is no question whatever but that these liabilities have been incurred; they are a floating debt of the company, and, as the testimony has conclusively shown, were incurred for betterments and improvements. 2d. The important question as to whether they were incurred in violation of the stipulation made with the income bondholders at the time of the negotiation of those bonds is another matter.

At the time of the issuing of the second mortgage income bonds it was provided in the bond that the railroad company should pay to each bondholder interest at a rate not exceeding seven per cent per annum, "as the net earnings of the said railroad in each six calendar months preceding the first days of January and July in each year, as said net earnings are defined in the deed of trust by which this bond is secured, may suffice to pay on the entire issue of which this bond is a part, after satisfying the interest on all prior liens and encumbrances, and reserving such amount, not exceeding \$50,000 per annum, as the directors of said company may deem proper for the improvement and betterment of or additions to the railroad property of said company."

In the deed of trust securing the income bonds, dated July 1, 1875, it is declared that net earnings "shall be construed to mean such surplus of the earnings of the said railroad as shall remain after paying all expenses for operating said railroad and carrying on its business, including all taxes and assessments and payment of encumbrances and liens prior to these presents and such further sum, not exceeding \$50,000 in any one year, as the directors of said company may deem proper for the improvement and betterment of or additions to the railroad property of said company."

The railroad authorities have construed this stipulation to mean that they could expend \$50,000 a year on betterments and improvements whether it had been earned or not. Inasmuch as it was not earned in many years, money was borrowed with which to make such betterments and improvements. A large floating debt was thus created. The annual interest and discount paid upon the renewal of the notes are items disputed by the complainant. The complainant claims that to have thus incurred a debt and to have paid interest upon the same prior to the interest upon the income mortgage bonds, was in violation of the agreement with the income mortgage bondholders. It appears by the testimony that the incurring of such debt was absolutely necessary to put the railroad in a safe condition to operate. Its credit was very poor; it could not borrow money, and the notes which it put forth were negotiated upon the credit of Mr. Cornell, its president, who indorsed them all. Whether or not the railroad violated its contract or stipulation with the second mortgage income bondholders or whether it properly construed the meaning of the words "net earnings" as defined in the deed of trust, are questions which it would seem rather for the courts to determine than for this Board.

The petitioner requests, "That an order may be granted and entered by your Board requiring the Ulster and Delaware Railroad Company and its officers and board of directors to correct their said annual reports in the respects and as to the matters hereinbefore set forth so that the same shall conform to the various provisions of law and the regulations of your Board on the subject.

Inasmuch as this floating debt has been incurred and the money expended upon the road, it certainly would not be proper for the Board of Railroad Commissioners to order the Ulster and Delaware Railroad Company to alter or amend its report by striking out any of the items; nor does the Board see how any order it might make as to the method of making the report could in any way alter the rights of the second mortgage income bondholders, if such rights have been disregarded in the incurring of such debt.

*Seventh.* The seventh specification relates to the Hobart Branch railroad, and the claim of the petitioner is, "That the operation of the Hobart Branch by the Ulster and Delaware railroad is illegal and unauthorized and detrimental to the rights of the stockholders and bondholders of the Ulster and Delaware Railroad Company."

The answer of the railroad in the brief of its counsel is as follows:

"The legality and authority of the Ulster and Delaware Railroad Company to lease and operate the Hobart Branch road are settled by two statutes, chapter 218, Laws of 1839, providing that 'it shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract.'"

"And chapter 604 of the Laws of 1872, providing (section 2), that 'the said company is hereby authorized to consolidate with any connecting railroad or branch road between Rondout and Syracuse, or may lease or operate the same, or may purchase said road or roads, or branches.'"

"The other question of the benefit or detriment to the Ulster and Delaware Railroad Company by the construction and use of the Hobart Branch is settled by the actual results given in the testimony of Mr. Dimmick on September 22, 1896.

"This testimony, together with the minutes from the minute-book of the company and the documents put in evidence, show that the Hobart Branch was built at the

request of the inhabitants of Hobart and its vicinity, by Mr. Cornell, and that the object was to increase the business over the Ulster and Delaware road. The road was very economically built at a cost of \$43,000, being \$5,000 below the engineer's estimate, and was capitalized at the sum of \$50,000. It was finished in December, 1884, and has been operated by the Ulster and Delaware Company since that time upon an understanding that it would be ultimately leased, or a contract of some character entered into.

"In March, 1886, by nearly the unanimous consent of the bond and stockholders of the Ulster and Delaware Company, the Hobart Branch was leased to the Ulster and Delaware road at a rent of \$3,000 a year.

"Is this arrangement beneficial or detrimental to the Ulster and Delaware Company?

"This is conclusively answered by the testimony of Mr. Dimmick.

"He shows that a careful tabulation has been made, which was put in evidence, of the business of the Hobart Branches and of the expenses of the operation, including the rent of that road from the time it was finished until the 1st of September, 1886.

"He shows that the total earnings amount to \$11,784.93. That the cost of operation during that time is \$6,805.35, and that the rent paid during the same time is \$4,000, leaving a surplus to the credit of the Ulster and Delaware Company of \$979.58.

"This is the net result of the arrangement with the Hobart Branch road and of its operation by the Ulster and Delaware Company from the beginning until the 1st of September, 1886, and instead of showing a loss to the Ulster and Delaware, it shows a profit of nearly \$1,000.

"This is a sufficient and conclusive answer to the suspicions and misgivings of the petitioner upon this subject, and that the stockholders and bondholders when they gave their assent to the lease had better knowledge of the facts and of the prospects of the property than the petitioner.

"The testimony of Mr. Dimmick goes beyond this. The carefully prepared and accurate diagram or map put in evidence showing the country about the village of Hobart within the radius of five miles, with all the dairies, number of cows and quantity of milk produced, is a document of great value, and proves the sagacity of the Ulster and Delaware Company in securing the construction of the Hobart Branch, and the operation of that branch in connection with the Ulster and Delaware road. It also shows that since the operation of the Hobart Branch the increase in the shipment of cans of milk has been more than five fold. The number of cans shipped over the Ulster and Delaware before the Hobart Branch was built, was thirty-one a day from that territory; the number shipped since that road has been in operation is 177 cans a day, and the number is constantly increasing. The diagram or map further shows that this increase is not only likely, but quite certain, to go steadily forward, and that it will, in all probability, soon amount to 600 cans a day, and bring a very large revenue to the Ulster and Delaware road, as every can of milk shipped over the Hobart Branch must pass over the Ulster and Delaware in order to reach the West Shore road, and thence be transported to New York.

"His testimony further shows that the number of cows whose milk is at present shipped is 1,224, and that the territory within the area mentioned contains 3,604 milk-producing cows, and that they are all near enough to the Hobart station to enable the milk to be shipped over the road.

The foregoing discussion covers the allegations made by the petitioner in his original petition. During the investigation some other points have been incidentally brought out and testimony given respecting them. Inasmuch, however, as the petitioner makes no request that the Board shall make any determination with regard to them, they will not be further considered. It may be proper to say generally, however, that none of the testimony shows that the interests of the Ulster and Delaware road have not been carefully regarded by its management.

In the opinion of the Board the only question for its determination in this proceeding is as to whether the annual reports heretofore filed,



## COMPLAINTS.

as required by law, are correct and in accordance with statutory requirements and the rules of this Board. The contention between the bondholders and the road as to the construction of the agreement between them, and as to whether earnings properly applicable to the payment of the bonds have been diverted to additions and betterments, is not for this Board to determine, but must be left to the courts.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XII.

GEORGE C. BEECHER v. THE NEW YORK CENTRAL AND HUDSON RIVER  
RAILROAD COMPANY.

November 17, 1886.

Mr. Beecher of Canandaigua complained to the Board that defendant company ran stock cars on the regular passenger trains, to the great annoyance of the passengers; that on a date just prior to the making of the complaint, July 31, 1886, on a passenger train bound west there were two car-loads of hogs.

The company, by its president, admitted the fact alleged, and said, by way of explanation, that "it had been customary occasionally to run one or more cars of stock on the trains leaving Batavia at 5:45 P. M., to Canandaigua. This stock is destined for the Northern Central road, and is put upon this train to avoid detention, there being no other train making the same connection. As there are only from one to two cars there is not enough in the business for us to run a special train, and if the stock was kept for freight trains they would suffer greatly."

As the complainant made no reply to this statement of the company, it is presumed he is satisfied with the answer.

## XIII.

CITIZENS OF THE TOWN OF RUSHFORD v. THE TONAWANDA VALLEY AND  
CUBA RAILROAD COMPANY.

January 4, 1887.

The complainants allege that when the defendant company organized, about the month of August, 1881, the citizens of Rushford largely subscribed for the bonds of the company, in the faith that the railroad of the company would be constructed, maintained and operated through the town of Rushford, in accordance with the terms of the charter of the company; that in November, 1884, Bird W. Spencer was duly appointed Receiver of the Company, and that since that time the road has been operated only a portion of the time — that is to say only a portion of the winter of 1884-5; not at all during the winter of 1885-6; and on the 6th day of November, 1886, operation was again stopped, and at that time the Receiver announced that it would not be operated again through Rushford until the spring of 1887; that this closing of the road during the winter was the cause of great

damage to the property and business interests of Rushford, and submits the citizens to great inconvenience and expense, wherefore they prayed for relief.

The Receiver answered that the railroad was operated regularly and daily, except during a short time in February, 1885, when it was prevented by a strike of the employees, and that it was so operated except when, from time to time, prevented by heavy snows, until November 20, 1885, at which time the employees struck for payment of wages; as the road did not pay operating expenses, operation was not resumed until early in the spring of 1886, when it was daily operated until October, 1886, since which time and until the date of the answer, December 24, 1886, trains have not been run daily on the line south of Sandusky, because there was not enough traffic and travel to pay the expense of daily operation, but as often as freight accumulated at that point of the line sufficient to pay expenses, a train was sent over the line to gather it.

The reply of the complainants was that the answer of the Receiver was insufficient, and the Board was pressed to take action to compel the daily operation of the road.

In January the Board addressed the following letter to the complainants:

"\* \* \* The Board calls your attention to the fact that this road has been operated at a continuous loss. Its sworn annual report for the year ending September 30, 1885, shows the gross earnings from operation to have been \$18,693.57; operating expenses (including all taxes) to have been \$23,766.84, making a deficiency for that year of \$5,073.27. For the year ending September 30, 1886, the deficiency from operation was \$3,195.16; in addition to this, lumber and labor for repairs of road authorized by court, and taxes in arrears and legal expenses, etc., amounted to \$8,355.34, making the total loss for the year \$11,550.50.

"In view of this financial condition of the road, and also the fact that the road is in the hands of a Receiver, an officer of the Supreme Court, the Board deems that it would be more proper for the petitioners to apply to the Supreme Court for relief before the Board proceeds further."

#### XIV.

##### R. KRAFT v. THE STATEN ISLAND RAPID TRANSIT COMPANY.

January 11, 1887.

The complaint was that an automatic gate for the protection of the public was being experimented with at the East Broadway crossing in Tottenville, Staten Island, which was an obstruction on the road, and as it was a failure, was dangerous.

The company replied that the gate was an experiment, but as there was also a flagman stationed at the point, and as the gate had many good points it thought that the proprietors ought to be permitted to continue the experiments which had in view the ultimate perfection of the gate.

The Board agreed with the company, and so informed the complainant.

## XV.

## WILLIAM LOUNSBERRY v. THE KINGSTON CITY RAILROAD COMPANY.

January 11, 1887.

The complainant alleges that he was and is a stockholder of the Kingston and Rondout Horse Railroad Company. That the defendant above-named claims to have become the owner of and to be in possession of the rights, properties and franchises of the said Kingston and Rondout Horse Railroad Company, under and by virtue of a foreclosure of a certain mortgage issued to secure bonds. The complainant alleges that the "said foreclosure was collusive and fraudulent; that the said mortgage and bonds were in fact never issued by the Kingston and Rondout Horse Railroad Company; that the said Henry W. Winne and Thomas Cornell (into whose hands said bonds went) never became owners of the bonds upon which the foreclosure proceedings were taken, and that said foreclosure was illegal, collusive and fraudulent, and that no title passed thereby, and that the sale was void; that the Kingston and Rondout Horse Railroad Company still is the lawful owner of the property, rights and franchises so pretended to have been conveyed, and your petitioner asks the judgment of the Board of Railroad Commissioners in accordance with the allegations aforesaid, and that the said Commissioners make such recommendations as shall compel the Kingston City Railroad Company to deliver back to the Kingston and Rondout Horse Railroad Company, the rights, properties and franchises thereof, and that in case of refusal that the facts be reported to the Attorney-General of the State, that he may proceed by *mandamus* or *quo warranto*, or other appropriate remedy to redress the injury, etc."

The defendant denies all of the allegations as to fraud and conspiracy and alleges itself to be the owner of the property, etc., of the Kingston and Rondout Horse Railroad Company under and by virtue of the said foreclosure proceedings, which it alleges to have been in all respects regular and valid.

The defendant also questions the jurisdiction of the Board to investigate or decide such an issue as is presented. Before proceeding to a hearing the Board deems it proper to dispose of this preliminary question.

The judgment of foreclosure was rendered by the Supreme Court.

It is a general and wise rule of law that the judgment of a court of record is collaterally conclusive and cannot be questioned or set aside, except upon appeal, or by a direct proceeding brought for the purpose in the court wherein the judgment was rendered.

While this Board is invested with the right to investigate all matters connected with the ownership and management of railroad corporations, yet such an investigation would seem to be entirely useless where its object is to attack the judgment of a court of record as having been obtained through collusion and fraud. The place to present such a complaint is in the court where the judgment was rendered.

For these reasons the Board does not consider that it ought to proceed with an investigation herein and therefore it dismisses the complaint.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XVI.

### IN THE MATTER OF THE APPLICATION OF THE ROCKAWAY VILLAGE RAILWAY COMPANY TO ABANDON OPERATIONS FOR A LIMITED PERIOD OF TIME.

January 13, 1887.

This company applied for permission to abandon the operation of its road from the first day of October, 1886, to the first day of May, 1887, under the provisions of chapter 605, Laws of 1886.

The matter of application having been referred to Commissioner Kernan, he made the following report:

IN THE MATTER OF THE APPLICATION OF  
THE ROCKAWAY VILLAGE RAILWAY COM-  
PANY TO ABANDON OPERATION FOR A  
LIMITED PERIOD OF TIME.

Commissioner Kernan reports that he went over the line of this road on January 14, 1887, and conferred with a number of citizens in relation to the proposition to abandon the operation of the road during the winter season. The sentiment, while not unanimous, seemed generally to be in favor of permitting the road to abandon operation from the first of November to the fifteenth of April, for the reason that during those months there was substantially no travel to be accommodated; that the entire receipts for passengers during November were \$22.30; during December, \$7.35, and during the week ending January 7, forty cents. The road does not exceed one-half mile in length, and is built and designed to carry people in summer from the station of the Long Island railroad through the village of Rockaway to the beach. The company should, under the provisions of chapter 605, Laws of 1886, be permitted to abandon operation until April fifteenth next.

JOHN D. KERNAN, *Commissioner.*

The report having been accepted, the following order was made by the Board:

STATE OF NEW YORK:  
BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, January 13, 1887.

Order is hereby made permitting the Rockaway Village Railroad Company to abandon the operation of its road until the fifteenth day of April, 1887, upon complying with the provisions of chapter 605 of the Laws of 1886.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XVII.

ALBERT EMERSON v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

January 21, 1887.

The complaint was that the complainant, who was a shipper of hay, was charged seventeen cents per hundred weight for the transportation of hay from Sackett's Harbor to Utica, while competitors had been charged only ten cents; therefore he complained that he had been discriminated against.

The reply of the company was that when applied for the rate from Sackett's Harbor to Utica was fifteen cents, while the rate to New York was twenty-two and one-half cents, out of which the company got ten cents to Utica. If the complainant desired the New York rate the company would grant it at twenty-two and one-half cents.

The complainant was satisfied with the New York rate.

## XVIII.

J. RASBACH v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

February 1, 1887.

The complainant alleged that the company complained of charged him fifteen cents per hundred weight for transportation of hay from Orleans Four-Corners to Utica, while it charged others only ten cents per hundred. The reply of the company was that fifteen cents was the regular rate. The complainant reiterated that others were charged ten cents, and that it amounted to a discrimination of one dollar a ton against him, and he named the neighbors receiving. This statement he subsequently verified by affidavit, asserting therein that he received his information first, from the shippers, and secondly, from the books of the company at the station. This being transmitted to the company, the president promised an investigation. Subsequently the complainant informed the Board that the company had granted him the rate of twenty-two and one-half cents per hundred to New York, which was satisfactory and would be so long as he had the same rate that others obtained, and that the \$25.80 excess in charges were refunded him. The Board on February 1, 1887, wrote him that it assumed that the matter which was the subject of complaint had been satisfactorily settled; that if he desired the Board to entertain a complaint as to claim for payment of sums alleged to be in excess of rates after he had presented a bill for the same to the company, the Board would entertain it. No answer to this has been received.

## XIX.

## MORTIMER C. EARL v. THE JAMAICA AND BROOKLYN ROAD COMPANY.

February 24, 1887.

After receiving the complaint and answer herein the Board caused a thorough inspection of the road to be made. On February 24, 1887, a public hearing was had at Albany, at which the complainants, Messrs. Mortimer C. Earl, Linton, Molloy and Herbert C. Smith, were heard in support of the allegations of the complaint, A. A. DeGrauw, Esq., President, appearing in opposition.

It is quite clear that many of the allegations made by the complainants are well founded, and that the Board ought to make the following recommendations:

*First.* That the entire superstructure be put in proper condition and repair.

*Second.* That a time-table be published and posted at the terminals and at several convenient intermediate points, and be obtainable by those applying therefor at the office of the company.

*Third.* That the service be established within the city limits from 7 A. M., to 11 P. M., and cars to be run at not less than half-hourly intervals from November 1 to April 1, and not less than fifteen-minute intervals from April 1 to November 1.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## XX.

## FRED SMITH v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

February 24, 1887.

The complainant, doing business at Tonawanda, alleged that he shipped two cars of lumber to Whitehall on January 14, 1886, via the New York Central and Hudson River railroad to John Reed, under agreement to prepay freight to Schenectady. On the weight, 70,000 pounds, he paid thirteen and one-half cents per hundred pounds, amounting to \$94.50. Subsequently he learned that a neighbor of Mr. Reed paid for similar car loads from Tonawanda to Schenectady only \$18 per car. He complained of the discrimination.

The company replied that the weight of Mr. Smith's cars were 70,000 pounds, and those of Mr. Reed's neighbor 44,800 pounds; that the former were shipped from Tonawanda and the latter from Lockport. The rate from Lockport was made in the spring of 1886, when the rate from Tonawanda was ten and one-half cents per hundred pounds, and so continued until November 1, 1886. As lumber shipped from Lockport is brought by canal or road to Lockport, and such transportation and handling being an extra expense above that on lumber received at Tonawanda, a difference of two and one-half cents between Tonawanda

and Lockport rates to Schenectady was allowed. However, the company offered to allow Mr. Smith's shipments to be charged at the rate of ten and one-half cents, and the rebate thus offered was accepted by Mr. Smith.

## XXI.

WILLIAM R. STRONG v. THE NEW YORK AND HARLEM RAILROAD COMPANY.

March 14, 1887.

The complaint states that the complainant was a producer of milk, shipping every day in the year over the New York and Harlem railroad from Golden's Bridge, forty-four miles, for which he was charged thirty cents a can, or at the rate of \$6 per ton, or thirteen and sixty-five one-hundredths cents per ton per mile, a rate vastly higher than was charged for any farm produce, and which he alleged would be a tax of twenty per cent on his gross receipts from the milk.

The complaint was dismissed for the reasons given in the following communication from the Board to the complainant:

"\* \* \* That the question presented in the complaint had been exhaustively examined and adjudicated by the Board in the cases of *J. E. A. Moore et al.*, and *Milk Producers of America v. The New York and Harlem Railroad Company*, (see pages 172, 190 and 213 Railroad Commissioners' Report, 1883, Vol. 1), and because no additional facts are presented which justify the Board on the complaint of a single person in reopening the case."

## XXII.

B. THOMAS v. THE TWENTY-THIRD STREET RAILROAD COMPANY.

March 16, 1887.

The complaint was that the Twenty-Third Street Railroad Company stopped certain of its cars at its stables on Twenty-third street, instead of running them to the western terminus of its road near the North river, thereby compelling all passengers thereon seeking to cross the North river from New York by the Twenty-third street ferry and persons coming into the city of New York by the same ferry to walk half a block to obtain a car; the complainant believes that this stoppage of cars was illegal. The complainant is the General Superintendent of the New York, Lake Erie and Western Railroad Company.

The answer of the road was that the complaint was unfounded, that every car was run pursuant to law from river to river, except such as were swung off the trips, and these were taken into the depot. The Board made a personal inspection of the point, and on February 16, 1887, cited Jacob Sharp, the president of the road, to appear and show cause why the Board should not recommend that all the cars should be run to the foot of Twenty-third street instead of being switched into the stables.

It seemed to be established at this hearing that, as the middle of the day approached, the headway of cars must be slackened, as there was



not travel enough to justify so many cars on the road. As these superfluous cars returned they were run into the depot, two hundred yards from the foot of the street. There seemed to be but two ways other than this; one, to stop them on Twenty-third street, which would block it up, and make the distance to be traveled longer, and the other to run them to the turn-table at Thirteenth avenue (the foot of the street) and turn them, which would create a blockade there, and the best means seems to have been adopted by the company:

The Board stated these facts in a communication to the complainant, with a request that he suggest a practical method of remedy, if possible. No answer has been received to this communication.

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### XXIII.

#### MERCHANTS AND SHIPPERS OF BUFFALO v. THE RAILROADS ENTERING THAT CITY.

March 30, 1887.

This was a complaint that the railroads entering the city of Buffalo discriminated in the rates from the west against the commerce of that city. An examination showing that the question raised was one purely of inter-State Commerce, the papers in the case were referred to the inter-State Commerce Commission, and the complainants so notified.

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### XXIV.

#### E. P. TYSEN v. THE STATEN ISLAND RAPID TRANSIT COMPANY.

April 1, 1887.

The complaint, of date of January 29, 1887, alleged that the company did not handle the baggage of passengers at all, but compelled its passengers to send everything by express.

The company admitted the condition of things to be as stated in the complaint, and promised that as soon as the spring opened a system of checking baggage would be established. Such system was put into operation April 1, 1887, with which the complainant expressed himself satisfied.

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### XXV.

#### JOHN C. JAY, JR., v. THE SIXTH AVENUE RAILROAD COMPANY.

June 8, 1887.

The complaint was that on May 31 the complainant had boarded a Sixth avenue car marked Fifty-ninth street at Twenty-ninth street, obtaining a seat and paying his fare; but upon reaching Forty-third street, where is located the depot of the company, the car the complainant was in and the one ahead were side-tracked and the passengers of both cars told to enter a third car standing on the main track,

wherein all seats were occupied and some were standing, while complainant was unable to obtain a seat. The allegation was that this injustice was a daily occurrence.

The answer was a denial that such incidents were a daily occurrence. On May 31 the cars of the Sixth avenue line were blocked down town by the parade of the police department one hour and forty minutes. To supply this gap all the extra cars were sent out, and then only one in eleven of the up-bound cars were stopped at the depot to return to the other end of the line; that these things only occurred at times of a blockade by reason of a fire, parade, etc.

The Board informed the complainant that it did not see, under the circumstances stated, how these occasional inconveniences were to be avoided, and dismissed the complaint.

## XXVI.

### PETITION OF CITIZENS OF BROOKLYN V. THE BROOKLYN CITY RAILROAD COMPANY.

June 15, 1887.

Citizens of Brooklyn, residing on the line of Third avenue in that city, and on those of streets intersecting it at right angles, between Twenty-fifth street and the city line, presented a numerous signed petition to the Board alleging:

*First.* The illegal use of steam motors upon the surface of Third avenue.

*Second.* The improper and vexatious transfers of passengers from horse cars to steam cars at Twenty-fifth street on said Third avenue line; and

*Third.* The infrequent trips of cars on Third avenue south of Twenty-fifth street, and the entire cessation of trips during several hours of the night.

Wherefore the petitioners prayed that the Board would take action toward the removal of steam motors from Third avenue in that city.

The company, when the complaint was transmitted, made answer that the identical subject was then under consideration before the board of aldermen of the city of Brooklyn, and asked that any action the Board might take be deferred until such time as the aldermanic board had acted; if, however, the Board was not willing to await the final action of the aldermanic board, then the company would submit a general denial of the alleged facts set forth, and be prepared to submit proof that in the operation of steam motors on Third avenue the law was being complied with in every particular, and that the statements made in the complaint were incorrect.

The Board granted this application, and some time having elapsed and receiving no information as to the action of the common council, it wrote to both petitioners and defendant for information on the subject. From the counsel of the petitioners on June 15, 1887, it received a communication to the effect that the petitioners wished "to have withdrawn the petition against the Brooklyn City Railroad Company, as some arrangement had been made."

## XXVII.

HENRY H. PRYOR, PRESIDENT OF THE WOODBURY ENGINE COMPANY V. THE  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD SYSTEM.

June 22, 1887.

The complaint alleged that the Woodbury Engine Company was engaged in the making of steam engines and boilers at Rochester; that they were unable to ascertain from the railroad companies running into Rochester what their local freight rates were, as upon application for a printed tariff none could be obtained, and therefore they could not determine whether they were discriminated against or not; that having applied to the West Shore Railway Company for a printed tariff showing the rate from Rochester to Fort Hunter, the agent replied that he could not give one; asking for a rate, they were given twenty-eight cents per one hundred pounds, or twenty-one cents if the company would sign a special release; asking for a printed classification so that they might see what class their goods were placed in, the agent's reply was that he could not supply one, and thus the complainants asserted they were unable to protect themselves against the agent's malice, ignorance or carelessness; the complainants also objected to signing a release in order to obtain the special rate, as the goods shipped by them were not liable to injury except through the grossest kind of carelessness or neglect of the railroad company.

The questions submitted were: first, was not the railroad company bound to supply shippers with printed copies of the tariff and classification? Secondly, whether the railroad company had the right to arbitrarily require the complainants to release the railroad company from loss or damage caused by their servants, in order to take advantage of the special rates?

A copy of the complaint having been transmitted to the defendants, answer was made, in effect, as follows:

That inasmuch as rates to points on other roads were made by joint action with those other roads, and were liable to be changed at short notice, tariffs of "through rates" to points on other roads were not published, but such rates were figured out at the general office, where the agents of all stations and shippers could always obtain them; that the necessity of constant changes in the rates, brought about by various causes, made a printed tariff and classification practically worthless; while it was true that the agents at the stations had such tariff and classification in their hands, yet they were constantly modified by special instructions; as to the compulsion to sign a release from the consequences of damage, the defendants thought that the right of a railroad to ask for a release, when special rates were based thereupon, was generally acknowledged.

The reply of the Woodbury Engine Company was that it had not made a complaint, but had asked the Board to decide certain questions which it had raised as to the respective rights of the railroad companies and their patrons; and the statement of other transactions which it appeared to think were grievances.

The Board then addressed the following letter to the president of the engine company:

"SIR: — Your communication of June 7th has received the attention of the Board.

"Your opening sentences complain, in effect, that the Board did not decide the case upon your presentation of the facts, without giving an opportunity to the railroad complained of to make answer or explanation. To thus decide is not the rule of the Board.

"You also state, 'it was not our purpose to make a special point against the New York Central and Hudson River Railroad Company or the West Shore Railway Company.'

"A careful perusal of your letter shows that the complaints are based specifically upon the action of these two corporations. The natural conclusion was that explanations should be called for. Such was the course of the Board.

"To determine whether such explanations are satisfactory or not, might be in order now, but were not in order before their receipt.

"In view of the fact, however, that in your letter of June 7th there were additional statements and complaints made, specifically, against the New York Central and Hudson River Railroad Company (as, for instance, with regard to the comparative rates between Albany and Rochester, and New York and Rochester), and to prevent further misunderstanding as to what you desire, the Board suggests that you send to this office a summary of the points you wish specifically investigated and passed upon by the Board."

To this no reply has been received, and the Board presumes the matter has been abandoned.

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## XXVIII.

### RESIDENTS OF SOUTH BROOKLYN V. THE ATLANTIC AVENUE RAILROAD COMPANY.

June 22, 1887.

The complaint was that the Atlantic Avenue Railroad Company had abandoned its branch road from Fifteenth street and Fifth avenue as a terminus connecting with the Prospect Park and Coney Island Railroad (steam), at Ninth avenue and Twentieth street.

Upon inquiry it was discovered that the branch spoken of was a line of five blocks, the right to run over which was obtained from the Prospect Park and Coney Island Railroad Company, to accommodate the summer passengers to Coney Island, and was abandoned in the winter, when there was little travel over the line, and resumed again in the summer; that there were no charter obligations to run at any time.

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## XXIX.

### CHARLES C. OVERTON AND OTHERS V. THE LONG ISLAND; THE BROOKLYN, FLATBUSH AND CONEY ISLAND; THE PROSPECT PARK AND CONEY ISLAND; THE BROOKLYN, BATH AND WEST END, AND THE NEW YORK AND SEA BEACH RAILROAD COMPANIES.

November 30, 1886.

In March last the Board received this complaint alleging that the said railroads did not furnish any winter early and late trains, nor commutation rates for every day passengers, residents of Coney Island and of the towns and villages situated between that point and Brooklyn; also, that during the winter the Long Island road ceased to

operate its Bay Ridge route; also, that by a recent combination among themselves the roads had raised, the excursion fare to Coney Island from twenty-five to forty-five cents, with no abatement in favor of everyday travelers.

The Long Island railroad answered that from the first of October to the first of June the road had very little travel, and that it ran what it regarded as a good schedule for the accommodation of the people. The road admitted that the summer excursion rates from the foot of Thirty-fourth street, New York, to the Island and return, was not changed during the winter, the winter rate being fifty cents; that this rate, after deducting six cents for ferriage, leaves the rate but forty-four cents for carrying a passenger about thirty miles. The further advance in rates complained of was five cents in the round trip from Brooklyn only—New York rates were not changed. This advance, it is alleged, was made to enable the roads to get money enough out of the business to prevent insolvency; that the road ceased to operate its Bay Ridge branch was not denied.

The New York and Sea Beach railway answered that its road was the only one of the three terminating at Bay Ridge, to-wit.: the New York and Sea Beach, the Manhattan Beach (leased to the Long Island), and the Prospect Park and Coney Island, which kept open during any part of the winter season, the other two roads ceasing to operate about September 30; that the Sea Beach ran trains to the first of January last from Coney Island and then loaned its tracks, without compensation, to the Brooklyn, Bath and West End railroad for the winter, which operated the road from Bath Junction to Bay Ridge; that during winter, passengers to and from Coney Island can more conveniently take the Prospect Park and Coney Island or the Brooklyn, Flatbush and Coney Island railroads, both of which afford very ample accommodations; that the running of boats from New York to Bay Ridge is subject to continual and constant interruption by reason of the accumulation of ice from Gowanus bay at the pier—the boats being often frozen in solid for days; that the fares charged are within the statutory limits, and in fall, winter and spring, involve a severe loss upon the business done.

The Brooklyn, Bath and West End railroad answered that the complaints had no merit; that the management had recently changed, and that since the change improvements had been made and would be continued, so that no reasonable man would have cause of complaint.

The Prospect Park and Coney Island railroad answered that its excursion rate was thirty cents while it originally was forty-three, and that were it not for its summer business it could not afford to do the winter business at the rates charged. That the policy of the company was to accommodate the local business in hopes that it would increase to an amount that would enable the road to provide for it without losing money, but as yet no such result had been reached.

The Brooklyn, Flatbush and Coney Island railroad answered that their excursion rates had been increased five cents only from Bedford station and Prospect Park station.

In reply to the answers the complainant insists that the services he asks in winter is no more than ought to be granted in view of the extensive privileges conferred upon and enjoyed by these railroads.

As to the Brooklyn, Bath and West End road he urges that since the road has given commutation rates to all of its stations except Coney Island that that station should be treated as the others are. He reiterates his complaint and insists that each of the roads should run early and late trains to accommodate business men and should furnish suitable commutation rates to daily travelers.

On June 22, 1886, a hearing was had in New York, at which the parties and their counsel were present. General Isaac H. Catlin, represented the people of Parkville, a station about two miles from Brooklyn, and property owners in that vicinity. He insisted that the lack of sufficient railroad facilities between the city and Parkville had prevented the erection of a large factory by the Butterick Publishing Company, employing several hundred persons, and had prevented the erection of many buildings.

Parkville is a village of about 500 inhabitants. The winter population of Coney Island is about 1,200 people; between that place and Brooklyn are the villages of Gravesend, King's Highway and Parkville, on the line of the Prospect Park and Coney Island railroad.

A number of persons appeared, residents of the Island, and insisted that the road should run a train enabling persons to reach New York by seven in the morning and to return as late as eleven o'clock at night.

The residents of Bath Beach and of the town of New Utrecht, insisted that the Bay Ridge route, operated in summer by the Long Island road, and by the Prospect Park and Coney Island road, over the tracks of the New York and Manhattan Beach road leased to the Long Island road, and by the New York and Sea Beach, should be operated in the winter for the reason that the Bay Ridge route afforded them a much more direct and shorter route than any other by which they could go to and return from New York city.

At this hearing the railroads showed that at times the ice seriously interfered with the operations of the Bay Ridge route; also, that upon the New York and Sea Beach an intersection was made at Third avenue with a dummy road which carries passengers from that point to Twenty-sixth street and thence by the cars of the Brooklyn City railroad to Hamilton ferry. The objection made to this was that the dummy line provided a long and circuitous route which impeded rather than aided travel to and from New York city, as compared with the ferry route.

It further appeared at the hearing, and by tables showing the business done, since submitted to the Board, that the earliest and latest trains up to the present time have nowhere near paid their operating expenses. It was, therefore, insisted that no further accommodation in the way of early and late trains ought to be asked or required. On the other hand the representatives of the people before the Board urged that, owing to the lack of sufficiently late and early trains and of reasonable commutation rates, many residents of houses upon the Island, and at its numerous towns, removed to the city each fall, thus causing a number of houses to remain vacant during several months for the sole reason that the railroad accommodations in the fall and winter were known not to be such as to enable people to travel to and from New York and Brooklyn at such hours as would permit them

to engage in business or to work as mechanics and laborers in those cities.

It was conceded that the railroads running to Bay Ridge do not operate the boats from that point to New York, but that for connection with their trains they are dependent upon such service as is afforded by the Staten Island Railroad Company, which owns and operates such boats.

It was suggested at the hearing, that the complainant should be permitted to send to the Board petitions from residents of Coney Island upon the question of early and late trains. The Board subsequently received petitions, signed by alleged residents of the towns of Gravesend and New Utrecht to the number of 488, asking for early and late trains on said railroads, and for communication rates.

In September last the Board addressed an inquiry to the several roads desiring to know what they proposed to do during the coming winter, to meet the demands for early and late trains. After receiving the answers of the roads, and about October 1st, a member of the Board went over these various railroads for the purpose of ascertaining, by personal observation, such further facts as could be thereby obtained, in reference to the various questions involved in this inquiry, and also of endeavoring to arrange with the roads for a satisfactory service.

Upon the line of the New York and Sea Beach, between Coney Island and Bath Junction, there are few stations of importance that are not equally well served by the Prospect Park and Coney Island railroad. The principal desire on the part of people for the winter operation of this road arises from the fact that at Bath Junction the road connects with the Brooklyn, Bath and West End railroad, which runs through Guntherville, Unionville, Locust Grove, Bath Beach and New Utrecht, to the aforesaid Junction. Were the Sea Beach and Long Island to operate their lines in connection with the Brooklyn, Bath and West End road to Bay Ridge, and thence by boat to New York, they would undoubtedly afford to many residents of the Island a much more speedy and direct means of communication with New York than they can secure by any other route, except when the ferry service is impeded by the accumulation of ice at Bay Ridge, or by severe storms. There is little evidence upon the line of this road of any building improvements having recently taken place.

The Brooklyn, Bath and West End railroad, since it has come under the present new management, has endeavored to meet the wishes of the people and is commended by them therefor. It has a train leaving Guntherville at 5:40 A. M.; this enables all persons residing between that point and Brooklyn to reach New York about 7 A. M. There is more evidence of growth and improvement along the line of this road than is to be seen along the lines of the other Coney Island railroads. Without doubt the many new residences recently erected, and in course of erection, are largely due to the desire manifested by the management of affording adequate facilities to the people along its line of going in and out of the city at all convenient hours.

The Prospect Park and Coney Island railroad runs from about the center of the Island to Greenwood Cemetery, where it connects with horse cars to the ferries. It is probable that the majority of the people living between Greenwood Cemetery and the Island can take



this road more conveniently than any other of the Coney Island railroads. As a means of communication to and from New York via the Brooklyn terminus, it is not as available as some of the other roads, for the reason that its terminus at Greenwood Cemetery is such as to require a long street car ride between that point and the Brooklyn ferries. As a route in and out of Brooklyn no other road would seem to afford better facilities to the people living in the towns along the lines.

The Brooklyn, Flatbush and Coney Island runs directly alongside of the Long Island railroad. There is little building or improvement along the line of this road. The Long Island railroad would accommodate much of its travel. The B., F. & C. I. road is in the hands of a receiver.

The Long Island railroad can carry passengers from Sheepshead Bay and the towns on its line to New York and return by means of its line running to Long Island City and the Thirty-fourth Street Ferry, more quickly and more comfortably than any other road upon the Island. As to its Bay Ridge division the position of the Long Island road is, that inasmuch as their main line runs from Coney Island to Hunters Point, where there are two lines of ferry boat making connection with New York, it is justified in discontinuing the operation of the short spur of road from the main line to Bay Ridge, the Bay Ridge line being impracticable and valueless as a winter line and there being no reasonable demand for its operation.

The case of the *People of Sandy Creek v. The R., W. & O. R. R. Co.*, recently decided in the Court of Appeals, seems to forbid the Board from recommending that the Long Island railroad operate its Bay Ridge line in winter as well as its Long Island City line, so far as all those people are concerned who can conveniently take the road to Hunters Point. The people at Parkville would, however, seem to have a right to insist that a winter service should be given them to enable them either to take the Staten Island railroad ferry boats at Bay Ridge or else to reach New York via Hunters Point and Thirty-fourth street. The court in the case cited held that a road which afforded a somewhat circuitous communication between two points by one of its lines was at liberty to discontinue and abandon another more direct route.

There is no complaint against any of the railroads but that during the daytime sufficient accommodation has always been afforded to the residents while the roads have been in operation. The complaint in respect to the service afforded comes down to the allegation that the roads do not provide trains which enable residents of the Island to reach their business and their work in the city by 7 A. M., in the morning, and to reach their homes as late as 9 or 10 o'clock P. M. It is probable that the trains heretofore provided carried business men into town sufficiently early. It is quite obvious, however, that mechanics and those whose business requires them to reach the city early and to return late cannot live along the lines of these roads, except the Brooklyn, Bath and West End road.

In and out of other large cities this early and late train service is generally provided at commutation rates, and it does seem as though such a service, provided to a reasonable extent upon the Coney Island railroads, would result in there being a much larger resident population to be accommodated by the railroads and to aid in making the service remunerative.

Our railroads do not seem as yet to have reached as advanced a position upon the subject of furnishing transportation to workmen in and out of large cities, at appropriate hours and rates, as has elsewhere been found to be good policy. In England as early as 1844, Parliament provided in the Cheap Trains' Act, that trains should be run in and out of large cities between 6 and 7 A. M., at the rate of a penny a mile. The experience of railroads under this act was such that these trains have been ever since provided at very much lower rates. Indeed, the Board of Trade afterwards recommended that such trains should be run in and out of London for a penny for the journey. Fourteen years' statistics in England showed that the increase in third-class passengers had alone kept pace with the increased mileage of railroads.

A recent French Commission on Railways reported that it was for the interest of railways to reduce the expense and increase the comfort of traveling for the masses; that the lower and middle classes are the most numerous and afford the most business.

It is quite obvious that the Coney Island railroads have not as yet run early and late trains at sufficiently low commutation rates to induce any settlements along their lines of those who have to work from 7 A. M. until 6 P. M., in the manufacturing and business establishments of the city. The tables furnished to the Board by the roads show that there is at present on nearly all of these roads no such travel to be accommodated. Neither will there ever be any people to use such trains until the railroads establish the service at low rates. To say to working people that as soon as you move out of the city and settle on the line of our roads we will give you trains and rates, is a perfectly useless and idle promise. The trains and the rates must be put into operation and doubtless continued for sometime without paying before the people will avail themselves of the opportunity afforded of getting cheap and healthful homes away from the city. All the conditions apparently exist on Long Island to make this experiment promise satisfactory results. The Island and the climate are well suited for cheap and comfortable suburban homes. There is near by the vast population of New York and Brooklyn, among which there is a growing tendency to seek in suburban towns and villages the retirement, healthfulness and economy which are forbidden by the conditions and surroundings of crowded city life. The Board cannot recommend a service to be furnished by railroads in advance of the present needs of those dwelling on the Island, but it does urgently call the attention of the roads to this matter in the hope that they will next spring, of their own accord and for their own future benefit, take decided steps toward providing a service and rates which will place Long Island homes within the reach of the working classes of New York and Brooklyn.

After the foregoing hearing, investigation, inspection of the lines and after several consultations with the railroads, they have consented to make time tables for the present winter which will afford to the residents of the Island a more convenient service.

1. The present time table of the Brooklyn, Bath and West End road is liberal and affords entire satisfaction to the residents between Guntherville and Brooklyn. Were the 5:40 A. M. train to be started at that hour from Coney Island instead of Guntherville, it would cost but

little, being an addition of but ten minutes to the trip, and would afford to those people an early train. The Board so recommends.

2. The time table of the Long Island road at present is certainly sufficient in the number of trains, there being five each way. The Board would suggest, however, that the train which leaves East New York at 6 A. M. start from Sheepshead Bay at that hour, and that the 7:35 P. M. train from Long Island City run through instead of stopping at East New York.

Upon the Bay Ridge route from Parkville there ought to be morning and evening trains to connect with the New York Ferry at Bay Ridge, or the road should give to Parkville a service connecting with its morning and evening trains to and from Hunters Point and Thirty-fourth street, New York. The Board so recommends. In the latter case those residing between Parkville and Bay Ridge can generally take the New York and Sea Beach route, and as that road proposes to run to connect with each ferry trip, nothing would be gained by having the Long Island run to the same boats. This seems to be in accordance with the views of the Court of Appeals in the case cited.

3. The Brooklyn, Flatbush and Coney Island railroad is in the hands of a receiver, and hence demands upon it for additional service ought to be made only to meet a very pressing public need, and where there is a reasonable prospect of a paying business. Its present time table, with the recently added night trains on Wednesday and Saturday evenings ought to be satisfactory. The people desire a train leaving Bedford station about 9 P. M., and returning at 9:30 P. M. This would require an extra crew, etc. The Board will not press a recommendation that such a train be put into service, but commends the matter to the attention of the road in the hope that such a train will be added to the present time table as soon as it will pay for operation.

4. The New York and Sea Beach road proposes to run in connection with the Staten Island railroad ferry at Bay Ridge. This ferry will make seven trips a day, as the Board is informed, leaving Bay Ridge at 7:25 A. M. in the morning on its first trip, and leaving New York at 6:05 P. M. on its last trip. The Sea Beach road cannot do more than give the service it proposes.

5. The Prospect Park and Coney Island road has added to its winter time table a 9 o'clock P. M. train from Brooklyn, returning at 9:30 P. M. These additional trains, together with a late theatre train added on Wednesday and Saturday evenings, ought to furnish a satisfactory service, provided a train were added leaving West Brighton at 6:30 A. M.; and the Board so recommends.

This road ran over the Manhattan Beach tracks to Bay Ridge during the past summer, under the license or permission of the Long Island road. It occupies neither the position of owner or of lessee of that road, and hence there is no legal obligation imposed upon it to furnish a winter service upon that route.

6. The Long Island road; the Brooklyn, Bath and West End road, and the Brooklyn, Flatbush and Coney Island road, have recently adopted commutation rates suitable for the daily traveler between Brooklyn and certain stations on their lines.

Upon application therefor commutation rates ought to be given to those residing at other similar stations on their lines, and the Board so recommends.

The New York and Sea Beach and the Prospect Park and Coney Island have not as yet made any commutation rates for daily travelers, but inasmuch as the other lines have done so it is to be presumed that these roads will adopt this just policy, and the Board so recommends.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

This case was in part reopened by the application of the New York and Sea Beach to suspend operations during the winter months of 1886 and 1887, which application, however, was subsequently abandoned.

### XXX.

CITIZENS OF THE TOWNS OF BRIGHTON AND HENRIETTA, MONROE COUNTY, N. Y.  
THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY,  
LESSEE.

March 29, 1887.

The complainants allege that prior to the lease of the West Shore railroad to the defendant they had a fairly convenient passenger train service to points east and west over the West Shore railroad; that at Henrietta station they contributed several hundred dollars, and therewith constructed a neat and convenient depot; that immediately upon the lease being consummated, the defendant connected the West Shore tracks with its own at Fairport, east of Rochester, and at Churchville, west of Rochester, and that since such connection was made all West Shore passenger trains leave the West Shore tracks at Churchville and Fairport and run over the New York Central tracks through Rochester. This change in the manner of operation is alleged by the complainants and by the Hon. Fletcher A. Defendorf, Member of Assembly from that district, to be a great wrong toward complainants and all those living on the West Shore line between Fairport and Churchville.

The defendant answers as follows:

"The facts are substantially as stated in the complaint, and while that is true, it is equally true that the patrons of the West Shore railroad are much better served, as a whole, by a diversion of our through passenger trains to and from Rochester, so that having two courses open to us, we adopted the one giving the greatest good to the greatest number.

"The West Shore main tracks between Churchville and Fairport are used for heavy freight traffic of the West Shore railroad, and the local travel between those points is accommodated by the local freights having a passenger car attached. I do not see what else we can do at this time. We certainly cannot, in justice to the large passenger travel of the West Shore road, discontinue the service by way of Rochester, as that would create much greater complaint than that brought about by the discontinuance of the through passenger service by the direct line."

On March 17, Commissioner Kernan went over the road and inspected its stations and their surroundings. The case is a hard one for the complainants, and doubtless has subjected them to great disappointment.

There is no village of any size anywhere on the line of the West Shore between Fairport and Churchville that is incommoded. Henrietta, the most important point, is but about four miles from Rochester, and its inhabitants frankly admit that the West Shore railroad route to get them to and fro from Rochester is too long and roundabout to be of any service, as they use the daily stage to much better advantage.

The statistics furnished by the railroad of the travel to and from these stations on the West Shore for a year preceding the lease show a travel quite insufficient to require more service than is offered by the present arrangement.

*Statement showing West Shore business between points named for 1885.*

	From Fairport.	Rochester.	Pittsford.	Edgewood.	Henrietta.	Red Creek.	Genesee Junction.	Chili.	Churchville.
	To	To	To	To	To	To	To	To	To
Fairport.....	.....	.....	.....	47	298	111	.....	.....	.....
Rochester.....	.....	.....	.....	510	1,075	.....	.....	.....	.....
Pittsford.....	.....	.....	.....	43	100	.....	.....	.....	.....
Edgewood.....	93	556	216	.....	6	.....	44	.....	8
Henrietta.....	199	740	136	.....	.....	18	16	5	16
Red Creek.....	73	.....	.....	.....	27	.....	1	.....	.....
Genesee Junction.	106	.....	.....	1	12	3	.....	.....	.....
Chili.....	.....	.....	.....	.....	10	2	21	.....	.....
Churchville.....	.....	.....	.....	.....	16	4	41	.....	.....
Buckbee's.....	2	145	7	.....	16	4	4	35	67
	274	1,441	359	601	1,558	142	127	44	91

It is true, as the railroad asserts, that by running the West Shore trains through the New York Central depot at Rochester instead of over the old West Shore route as the complainants desire, the road does by far the greatest good to the greatest number. There is obviously no business to be done of any substantial amount at the present time over the West Shore railroad between Churchville and Fairport, and hence the Board would not be justified in recommending additional trains to that now run.

The train now run for passenger accommodation is a local freight each way. It has heretofore been very irregular in its time and has, therefore, afforded but little accommodation.

Since the attention of the Board was called to the matter, great improvement in this respect has been made, the complainants say.

The Board recommends that the local freight, with a passenger car attached, be hereafter run on a regular time table so that the people will be properly served by it.

By the Board.

WILLIAM C. HUDSON,

Secretary.

## XXXI.

GEORGE O. MEMBERY v. THE UTICA AND BLACK RIVER RAILROAD COMPANY.

April 20, 1887.

This complainant alleged that the company was in the habit of cutting and digging up the grass on the line of their road, and leaving it to dry where it fell; that the dry grass was often set on fire by the sparks of the engines, which fire spread to adjacent property destroying hay and growing grain. Before his claim could be adjusted the railroad property was leased by the Rome, Watertown and Ogdensburgh Railroad Company. When the Board called the attention of the latter company, it replied that it could not be responsible for the acts of the other company, but it would provide in the future against such damage. This having been communicated to the complainant and no answer from him being received, the Board presumes the matter to have been satisfactorily settled.

## XXXII.

WILLIAM ABBOTT AND OTHERS v. THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY.

July 12, 1887.

The complainants who reside in and about Timpson's Station, situated on the Harlem branch of the defendant's railroad, and extending from Harlem river to New Rochelle, a distance of about twelve miles, invoke the aid of the Board to prevent the defendant from carrying out the provisions of the following notice:

NEW YORK, May 17, 1887.

On and after Monday, May 30, 1887, Timpson's Station, on the Harlem river branch, will be discontinued, and no trains will be stopped at that point for passengers thereafter.

W. H. TURNER, *Superintendent*.

Pending the hearing, the road courteously suspended the enforcement of the order, without, however, thereby designing to waive any of its rights. The history of the station is briefly this:

In 1874 the complainants raised about \$1,000 and built a suitable station-house and platform, upon the understanding that the railroad would stop passenger trains there on signal. It is claimed that a deed of the land on which the building was erected, was tendered to the company. The company did not accept it, however, insisting that the station was only an experiment and that it was not willing by such an acceptance to bind itself to the permanent maintenance of a passenger station at that point. It is undoubtedly true that the raising and spending of so large a sum in station facilities was based upon and preceded by an understanding that the road would, without any definite limit of time being fixed for a continuance of such stoppage, permit the station to be known as a flag station, and would stop its

passenger trains there to let passengers off, or upon a flag signal to take them on, without, however, stationing an agent, or selling tickets at that point. The course of the road since that time confirms this contention of the complainants.

For about thirteen years the road has treated Timpson's upon its time tables as a flag station. During that period the complainants and the public have been permitted by the road to understand and believe that they could get on or off of nearly all the daily trains at Timpson's. The comfort, convenience and business life of quite a number of people have undoubtedly been arranged with reference to a continuance of such service, and will be quite rudely disturbed by the proposed change.

In the first place the road insists that the question is one of which the Board has no jurisdiction. The jurisdiction of the Board to make recommendations in such cases as this under section 6 of chapter 353, of the Laws of 1882, seems quite clear. By that section it is its duty to make such recommendations in all cases wherein the "mode of operating a road affects the security, convenience and accommodation of the public." We do not understand the case of *The People v. New York, Lake Erie & Western Railroad*, 104 N. Y. 58, to otherwise hold.

In that case the Board recommended that a proper station-house should be erected in place of a concededly insufficient structure. The Court of Appeals reversed an order granting and sustaining a *mandamus* to compel such erection and replacement. The grounds for its conclusion were :

1. That under section 28 of the General Railroad Act the directors are invested with the sole discretion of determining what facilities of this nature shall be provided for the accommodation of their passengers, and that there is no power in the courts to control or override the exercise of that discretion.
2. That while the act creating the Board of Railroad Commissioners and defining its powers, imposes upon such Board the duty of making such recommendations as are necessary in its judgment for the security, convenience and accommodation of the public, yet power to enforce such recommendations, however just and reasonable, is not conferred upon the courts.

The Court of Appeals with obvious regret notifies railroads that they are at liberty to determine absolutely what station and other like facilities they shall afford to their passengers; that they are equally protected by the law as it stands whether they act justly and reasonably, or on the other hand, fail to fairly appreciate what their passengers are entitled to expect. The court says :

The Railroad Commissioners have thought that it was essential for those purposes that a new and enlarged building for passengers and freight should be erected. That, it is true, was a question for them to decide. The statute (Laws of 1882, chapter 353) created a commission of "competent persons," required from them an official constitutional oath, assigned to them an office for the transaction of business, provided a clerk to administer oaths to witnesses and a marshal to summon them, gave full power of investigation and supervision of all railroads and their condition, with reference, not only to the security but accommodation of the public and declared that whenever, in their judgment, it shall appear among other things, that any addition to, or change of stations or station-houses is necessary to promote the security, convenience or accommodation of the public, they shall give notice to the corporation of the improvements and changes which they deem to be proper, and if they are not made, they shall present the facts to the Attorney-General for his consideration and action,



and also to the Legislature. All these things have been done. The Commissioners have heard and decided. They can do no more. After so much preliminary action by a body wisely organized to exercise useful and beneficial functions, it might well be thought unfortunate that some additional machinery had not been provided to carry into effect their decision. By creating, the statute recognizes the necessity for such a tribunal to adjust conflicting interests and controversies between the people and the corporation. It has clothed it with judicial powers to hear and determine, upon notice, questions arising between these parties, but it goes no further. Its proceedings and determinations, however characterized, amount to nothing more than an inquest for information. We find no law by which a court can carry into effect the decision. At this point the law fails, not only by its incompleteness and omission to furnish a remedy, but by its express provision that no request or advice of the Board, "nor any investigation or report made by" it, shall have the effect to impair the legal rights of any railroad corporation. The Attorney-General is given no new power. He may consider the result of the investigation made by the Commissioners, and their decision, and so may the company, but we must look further for his right of action, and the corporation, disregarding the judgment of the Commissioners, may continue the management of its business in its own way, may determine in its own discretion to what extent and in what manner the exercise of a public trust requires it to subserve the "security, convenience and accommodation of the public."

It follows in this case that, while the railroad is right in contending that the Board has no power to make any building recommendation, yet that it is nevertheless the duty of the Board to make such a recommendation as the case upon its merits in the judgment of the Board demands.

We do not think that for any of the reasons given the road is justified in discontinuing "Timpson's Station." After a reasonable time the road might have contended that the station was a failure as an experiment, and that there was no such growth of population, etc., as to warrant the continued stoppage of trains. The recognition of the station by the road for so many years, however, after the expiration of such a reasonable time, in justice estops the road from insisting upon this ground for its action. For ten years, at least, after the experiment had failed, the road continued to be apparently satisfied that the business at the station warranted the stoppage of trains, and by such action many people were undoubtedly influenced in their habits of life and business. According to the statement furnished by the road the business for the last two years was as follows:

	No. of pass.	Revenue
Year ending May 31, 1886 .....	7,281	\$423 24
Year ending May 31, 1887 .....	8,239	902 58
Grand total .....	15,520	\$1,724 82
Yearly average .....	7,760	\$862 41
Daily average .....	25	2 75

The complainants assail the accuracy of this statement, but it answers the purpose of showing a considerable and increasing travel to and from the station. The average for trains that stop is probably quite as good as is common at numerous small stations upon many railroads. Upon the evidence there are from seventy-five to one hundred residents who naturally use Timpson's.

The use of Westchester and Baychester Stations by the complainants instead of Timpson's, is open to quite serious objections when

viewed from the standpoint of those whom the road has so long educated into availing themselves of the greater convenience of Timpson's.

The additional drive or walk to either station, as well as the incidental delays liable to be caused by floods upon the Westchester road below Timpson's, and the apprehended danger arising from the near location of a dynamite factory at Baychester, are after all reasons of a kind to which the railroad under the circumstances of this case ought to give weight. To the daily commuters these reasons are certainly of considerable importance.

Were the question one of establishing a new station at Timpson's, it is probably true that upon the facts the road would be justified in refusing the application, but the road ought to appreciate that it is not justified in so regarding the matter in view of its own course for thirteen years past. The reasons it urges for its actions have existed for some years at best, and yet during those years it continued to impress upon Timpson's people and the public more and more the fact that the station was to continue.

Public policy in some States has led to the enactment of laws absolutely forbidding the discontinuance of any station after five years of use. While we have no such statute, yet its spirit and equity ought to be regarded by the railroad in a case of such long usage as we have before us.

This branch of defendant's road is less than twelve miles long, and is only used for suburban travel; it takes but from twenty-seven to thirty minutes to run it with the stop at Timpson's included; the saving after discontinuance in time would not exceed two minutes, and hence the Board cannot see in the saving of time a sufficient reason, under all the circumstances, why it should approve of the discontinuance.

#### CONCLUSION.

The Board recommends that the road shall hereafter continue to maintain Timpson's as a flag station, as heretofore.

By the Board.

WILLIAM C. HUDSON.

*Secretary.*

The company has complied with the recommendation.

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#### XXXIII.

BOARD OF SUPERVISORS OF ORANGE COUNTY v. THE NEW YORK, LAKE ERIE AND WESTERN, AND THE LEHIGH AND HUDSON RIVER RAILROAD COMPANIES.

July 9, 1887.

The Board of Supervisors of Orange county complained that the depot buildings at Greycourt were "entirely inadequate to properly accommodate the travelers on the said roads who are compelled to wait in said depot building," and requesting the Board "to take action requiring the companies to build a new and better depot, to the end that the public be provided with suitable waiting-room."

The reply of the New York, Lake Erie and Western was that "the station at Greycourt referred to, did not belong to the Erie company, but it was the property of the Lehigh and the Hudson River Railroad Company." The president added that the "matter of a new and more commodious station" was then under consideration by the officers of the two companies.

After some further correspondence on the subject, on July 19, 1887, President King (New York, Lake Erie and Western) informed the Board that a satisfactory understanding with the Lehigh and Hudson River Company had been reached and that plans for a station and yard were being prepared. The work is now in progress.

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#### XXXIV.

IN THE MATTER OF THE PETITION OF THE CITIZENS OF THE TOWN OF CHAMPLAIN, AND OTHERS, FOR BETTER RAILROAD CONNECTIONS BETWEEN CHAMPLAIN AND PLATTSBURGH, BY THE WAY OF THE OGDENSBURGH AND LAKE CHAMPLAIN DIVISION OF THE CENTRAL VERMONT RAILROAD COMPANY AND THE RAILROAD LINE OF THE DELAWARE AND HUDSON CANAL COMPANY.

July 26, 1887.

The complaint in substance is that Plattsburgh is the county seat of Clinton county, and is situated twenty-four miles south of Rouse's Point, on a railroad line of the Delaware and Hudson Canal Company, viz.: The New York and Canada Railroad; that under the present arrangements between the two companies, to wit, the Central Vermont Railroad, and the Delaware and Hudson Canal Company, there is no connection at Rouse's Point between the trains of the Ogdensburgh and Lake Champlain division of the Central Vermont and of the Delaware and Hudson Canal Company. The petitioner's are, therefore, practically precluded from going to and returning from their county seat the same day.

Copies of the complaint were transmitted to both the above-named railroad companies. It appears by the time table of the Delaware and Hudson Canal Company, which went into effect on the 20th of June, 1887, that an extra train has been put on its line, leaving Mooers Junction at 9:45 A. M. on the arrival of train No. 37 of the Ogdensburgh and Lake Champlain division of the Central Vermont, which reaches Plattsburgh at 11:10 A. M. Train No. 44 of the Delaware and Hudson Canal Company leaves Rouse's Point at 10:30 A. M., thirty minutes after the arrival of said train No. 37 of the Ogdensburgh and Lake Champlain division, reaching Ogdensburgh at 11:55 A. M., whereby Champlain and Malone passengers are enabled to reach Plattsburgh in the forenoon.

To avoid delay in returning the Board suggests that through freight No. 10 of the Ogdensburgh and Lake Champlain division should have a passenger car attached and be delayed thirty minutes at Rouse's Point, that is to say until 4:35 P. M., so as to connect with train No. 43 of the Delaware and Hudson Canal Company from Whitehall and

their annual town meeting, and such still seems to be the law. 1 R. S. (7th ed.), pp. 808-809; Tyler's Law of Boundaries, etc., p. 371, etc.

It will also be observed that section 8, above quoted, requires a railroad to maintain "cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from getting on to such railroad."

The railroad in question is not obeying this provision. Some of its cattle-guards have been filled up; others in large numbers are apparently utterly insufficient to prevent animals on the highway from passing over and around them.

For all cattle, etc., killed upon its tracks, while its fences and cattle-guards are not made, or are not in good repair, a railroad is liable. Many persons, however, do not desire to have their stock killed, even though paid for, especially as such killing generally involves much delay, and often expensive litigation. All persons living along the line of a railroad have a right to insist that their stock shall be protected from the dangers incident to running railroad trains by good and sufficient fences and cattle-guards.

Chapter 100 of the Laws of 1847, as amended by chapter 296 of the Laws of 1881, provides as follows:

§ 3. It shall be the duty of the several railroad corporations and turnpike road corporations within this State to cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by such corporations, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August.

§ 4. If the said corporations, or any or either of them, shall neglect to cause the same to be cut down, at the times in third section of this act mentioned, it shall be lawful for any person to cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive, in each year, at the expense of the corporation on whose lands said Canada thistles, white and yellow daisies, or other noxious weeds shall be so cut, at the rate of \$3.00 per day for the time so occupied in cutting, to be recovered in any court of justice in this State.

The road has not complied with the law during this season. The remedy of those affected thereby is pointed out in section 4.

At a number of places the Board observed great need of ditching for the purpose of draining and protecting the road-bed, and also for the purpose of permitting waters to flow off in their natural channels, and not set back upon adjoining lands. This was noticeably the case at the first crossing west from Etna, known as the Hannah Lee crossing.

There are several cuttings that need to be widened and to have the banks on either side cut back, in order to prevent land slides. Numerous accidents upon the West Shore, and upon the New York Central at St. Johnsville on April 18, 1887, ought to furnish sufficient warning to cause this work to be promptly done. While these places seem to be carefully watched, yet experience abundantly proves that no amount of watching can always prevent accidents to trains from slides at such points.

At the highway crossings generally the planking provided is not over 12 feet in width. This is too narrow to make a safe passageway for teams. The planking ought to be at least 16 feet in width, and at some of the crossings there ought to be 24 feet in width of planking.

The first crossing east of Varna is a blind crossing; an embankment left by the railroad in making a cut, obscures the view. The railroad ought to cut this embankment down and fill up the roadway on the north-west side of the track. This would afford to persons traveling the highway from the west and north a much better view of approaching trains. A railroad ought not to make a cut at a highway, and then leave the banks of the cut upon its own land to hide trains from the sight of people driving upon the highway.

At many highway crossings signs are wanting, as required by law. These ought to be erected at once.

The Board deems it to be its duty to be thus critical, and to condemn the road for the serious defects noted, and to recommend that the road do those things which the Board has herein pointed out ought to be done, and it does so recommend. In justice to the road, however, it ought to be said that it has well and thoroughly restored a dilapidated track, ties, trestles, bridges, etc., so that those elements, so essential to safe running, are in very much improved condition. Superintendent Allen having been in charge but for a few days, has hardly had time to familiarize himself with the matters complained of, and is not responsible for what the Board has condemned. Under his direction crossing signs are being erected; well-built and neatly white-washed cattle-guard cross-fences built; fences repaired and rebuilt, and some weed-cutting done. The Board trusts that all of the defects noted will be speedily remedied.

After its inspection of the road, made during the summer of 1885, the Board, at page 299 of its annual report, said:

"The cutting of weeds and underbrush was neglected last fall, and old track debris allowed to remain along the roadway; the fencing, much of which is too far dilapidated and broken; the warning signs at many highways yet wanting. These items of maintenance have received little attention, the large amount of absolutely necessary work on bridges and superstructure being paramount." It also pointed out that road-bed drainage had not been done. To find the same condition of things in 1887 leads the Board to believe that the road has not been as diligent as it ought to have been in remedying these defects, and that the people along the line have been very patient, and have a just right to complain. The recommendations of the Board are as follows:

1. That the fencing along the road and at highways and cattle-guards be put in proper condition.
2. That suitable cattle-guards be put in and maintained as required by law.

They ought to be constructed so that a derailed truck would be carried over on the cross ties if an excavation is made; or if no excavation is made, then the slat guard, such as the West Shore uses, ought to be adopted.

3. That the weeds be cut as required by the statute.
4. That necessary draining and ditching of the road-bed be done, and that such ditching be done where it is needed in order to allow waters to flow off in their usual channels.

5. That where necessary, the cuts be widened and the banks thereof cut back.

6. That highway crossings be planked at least sixteen feet in width and that crossing signs be erected at all highways where at present there are no such signs.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

The recommendations have not as yet been wholly complied with, especially as relates to fencing. The company alleges that since it came into possession of the property, it has been steadily at work in bringing it up, which was then greatly run down, and that it will comply in time, having already rebuilt twenty miles of fencing.

### XXXVI.

L. H. MEYER v. STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY.

September 27, 1887.

On March 30, 1887, Mr. L. H. Meyer, of Staten Island, lodged a complaint against the Staten Island Rapid Transit Company, that it failed to report the operation of the Staten Island Railway Company, leased by the Transit Company, as required by chapter 844, Laws of 1869, and insisted in that complaint that to comply with the above-named law, it was necessary that the report of the leased company must be kept separate from and not included in that of the lessee company.

Before the Board had come into existence, the law, owing to the great difficulty of its enforcement in very many instances and absolute impossibility in others, had fallen into desuetude. A question was raised as to the proper construction of the law under a subsequent enactment (chapter 353, Laws of 1882), section 10 of which empowered the Board of Railroad Commissioners to prescribe the form of the annual report to be made to the Board by the various railroad companies of the State, and from time to time make such changes and additions as in its discretion it saw fit, giving the companies six months' notice thereof. Such new form had been prescribed by the Board. The Board, therefore, referred the matter to the Attorney-General for his opinion, which in due time was given as follows:

#### STATE OF NEW YORK:

ATTORNEY-GENERAL'S OFFICE,  
ALBANY, June 29, 1887. }

*Secretary Board Railroad Commissioners:*

DEAR SIR—I have received the resolution passed by the Board of Railroad Commissioners, of which the following is a copy:

“WHEREAS, The Board in accordance with the practice obtaining in this State prior to 1883 has heretofore received reports from lessee

railroads in which the report of the operations of the lessor lines has not been made separate from that of the lessee's own lines, and

"WHEREAS, Question has been raised that such a report of the operation of the leased line does not conform to chapter 844 of the Laws of 1869, as modified or affected by section 10, chapter 353, Laws of 1882, or any other legislation, therefore

"Resolved, That the Attorney-General be requested to furnish this Board with his opinion upon the question thus presented."

In response to said resolution I beg leave to submit the following :

Chapter 844 of the Laws of 1869, provides that "any railroad corporation which may be the lessee of any other railroad shall, in addition to the powers and duties conferred and imposed by the act entitled 'An act in relation to railroads held under lease,' passed April 3, 1867, be required to make to the State Engineer a report of such facts concerning the operation of said leased road or roads as the lessors would otherwise be required to make, and the lessors shall not be required to make such report."

It will be observed that the only effect of this statute is to require the report of leased roads to be made by the lessee instead of the lessor and excuse the lessors from making any report.

The lessors would be required to make a report in conformity with the General Railroad Act of 1850, as amended by chapter 575 of the Laws of 1880, but the law of 1869 transfers the duty of making such report from the lessor to the lessee. The report must be made and the only report provided for is the report prescribed by the law of 1850, as amended in 1880.

Subdivision 185 of section 31 of said act of 1850, which prescribes the contents of the report to be made by railroads, provides, "that the provisions of this section shall apply to all existing railroad corporations, and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed a full compliance with any existing law or resolution requiring annual reports to be made by such corporations or either of them."

There is nothing in this provision inconsistent with chapter 844 of the Laws of 1869. As before stated the simple effect of the act of 1869 being to transfer the duty of making the report from the lessor to the lessee, the report must still be made, and the only law to be followed in making it is the law of 1850, as amended in 1880 (*supra*), and unless chapter 353 of the Laws of 1882, which is the act creating the Board of Railroad Commissioners, has given that Board power to change the requirements of the act of 1850, reports must still conform to its provisions.

This section provides as follows: "The said Board of Railroad Commissioners shall have power to prescribe the form of the report required to be made by railroad corporations under section 31 of chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' and may from time to time make such changes and additions in such form, giving to the corporation six months' notice before the expiration of any fiscal year of any such changes and additions which would require any alterations in the method or form of keeping their account, and



the report by said 'Act, to authorize the formation of railroad corporations and to regulate the same,' of 1850, required to be made to the State Engineer and Surveyor, shall hereafter be made to such Board of Railroad Commissioners. Until such Board of Railroad Commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations \* \* \* "

While there is nothing in this section which expressly relieves the leased roads from making the same reports that other roads make, still a liberal construction of the section would give authority to the Railroad Commission, in case of necessity, to so change the form of reports to be made by railroad companies as to allow companies having leased lines to include in the general report of the lines owned by them the earnings, etc., of the lines of which they are the lessees, and to relieve railroad companies owning and leasing lines from the necessity of making a separate and distinct report of the earnings, expenditures, etc., of the roads owned and of the roads leased by such companies.

I think, however, that unless it clearly appears that such a necessity exists, and unless it is impracticable for railroad companies to make a separate and distinct report of the operation of leased roads, the Railroad Commissioners should still require separate reports of the leased roads to be made by the lessees.

Very respectfully, your obedient servant,

DENIS O'BRIEN,

*Attorney-General.*

The matter being deemed one of much importance to the various corporations, a printed copy of this opinion was sent to all the companies with the following notice :

ALBANY, *July 13, 1887.*

SIR—Enclosed herewith you will find a printed copy of the opinion of the Attorney-General, upon the question submitted to him by the Board and raised before it, as to the application and enforcement of chapter 844 of Laws of 1889.

You are hereby notified to show reason, either in person or by letter, on September 13, 1887, at the office of the Board of Railroad Commissioners, at 10 A. M., why the Board should exempt lessee companies from making reports of lessor lines, showing the operation of lessor lines, separate from the reports of such lessee's other lines.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

On September 13, a hearing was given to all who presented themselves on behalf of the corporations, and their reasons taken and filed for future use. Hearing was also especially given to the complainant and the Staten Island Rapid Transit. The statement of the Rapid Transit Company showed that much difficulty would be encountered if not an impossibility in making separate reports, and the fact having been elicited from the complainant, who was a large stockholder in the Staten Island Railway Company, that he sought to know in detail "the improvements and cost thereof," made by the lessee com-

pany to the property of the lessor company, the Board, under the opinion of the Attorney-General, made the following order:

ALBANY, *September 27, 1887.*

After hearing the complainant in person, and Mr. Frank H. Platt for the company, it is ordered:

That the company be permitted to continue to make its quarterly and annual reports as heretofore, except that to each report shall be added a statement in detail of the permanent improvements and the cost thereof heretofore or hereafter made upon the leased line of the Staten Island Railroad Company.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## APPLICATIONS FOR INCREASE OF CAPITAL STOCK AND THE ISSUE OF BONDS.

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### I.

IN THE MATTER OF THE APPLICATION OF THE ALBANY RAILWAY FOR THE  
APPROVAL OF THE BOARD FOR AN INCREASE OF CAPITAL STOCK FROM  
\$200,000 TO \$275,000.

RECEIVED

October 5, 1886.

This application was originally made in 1885, but on August 15 of that year denied, as set forth on page 226 *et seq.*, Annual Report of the Board for the year ending September 30, 1885, by the majority of the Board, Commissioner Rogers as a minority advocating the approval. The reason for the denial, briefly stated, was that there was outstanding at least \$41,300 of stock for which the company has never received an equivalent either in money or property.

The application was renewed August, 10, 1886. Certain expenditures for improvements from earnings having been established before the Board, it approved the application by the adoption of the following preambles and resolution:

RESOLVED

WHEREAS, The Albany Railway has applied to this Board for approval of an increase of capital stock; and

WHEREAS, It appears that the Albany Street Railway, since June 26, 1885, has expended or is under contract to expend the sum of \$84,749.96; and

WHEREAS, Said railway has filed with this Board a stipulation that it will appropriate from earnings to additions and betterments annually a sum not less than \$5,000, until the cost of road and equipment shall be equal to the par value of all stock and bonds issued by the company; and

WHEREAS, It appears that the sum of \$41,300.47, found by this Board upon a former application to have been the difference between the par value of the stock and bonds of the road outstanding and the amount of cash expended for construction and equipment will, after the increase asked for has been granted, have been reduced by \$9,704.96, and is likely to be further largely reduced by an outstanding assessment for the paving of Washington avenue; therefore

Resolved, That the application of the Albany Railway for the approval of this Board for an increase of its stock from \$200,000 to \$275,000 be granted.

## II.

IN THE MATTER OF THE APPLICATION OF THE UTICA, CHENANGO AND SUSQUEHANNA VALLEY RAILROAD COMPANY TO INCREASE ITS CAPITAL STOCK FROM \$4,000,000 TO \$4,300,000.

November 23, 1886.

This company took the preliminary steps to obtain an increase of capital stock of \$300,000. At its request the Board designated a paper in which to publish the notice of the stockholders' meeting at which the proposition for the increase was to be voted upon, and informed the company as to the procedure required by the Board, under section 9, chapter 140, Laws of 1850, as amended by chapter 133, Laws of 1880. Since that time, November 23, 1886, nothing has been heard from the company.

## III.

IN THE MATTER OF THE APPLICATION OF THE ROME, WATERTOWN AND OGDENSBURGH TERMINAL RAILROAD COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$50,000 TO \$300,000.

January 25, 1887.

## MAJORITY REPORT.

The proceedings required by section 9 of the General Railroad Act having been duly taken, this Board made, by its accountant, an investigation of the financial affairs of the corporation.

It appears that the company was chartered June 22, 1886, with a capital of \$50,000, to provide terminal facilities in the city of Rochester for the Rome, Watertown and Ogdensburgh Railroad Company.

The accountant reports that there was expended to December 31, 1886, \$82,749.89.

The president of the road submits to the Board an affidavit that in addition to the above there has been expended for

Additional right of way and terminals purchased.....	\$120,000 00
Add right of way contracted for.....	42,000 00
Estimated cost of structure .....	105,000 00
Which with the.....	82,749 89
Make .....	<u>\$349,749 89</u>

as the final cost of road.

In view of the above figures the Board of Railroad Commissioners approves of the increase of the capital stock of the Rome, Watertown and Ogdensburgh Terminal Railroad Company from \$50,000 to \$300,000.

JOHN D. KERNAN,  
WILLIAM E. ROGERS,

Attest:

*Commissioners.*

WILLIAM C. HUDSON, *Secretary.*

## MINORITY REPORT.

This application for increase of capital stock is subject to the same objections made by me in the case of the Albany (Street) Railway Company. (See Railroad Commissioner's Report, volume 1, 1885, page 231.) It is quite evident from the accountant's report that the parties behind this application are abundantly able to raise the necessary funds to complete this road.

To the extent of the amount of cash capital actually expended as shown by the books of the company there can be no objection to issuing capital stock.

Although in this case there is no danger of an improper use of capital stock issued in advance of its expenditure, yet the precedent is a very dangerous one. A board of directors under this precedent might obtain the consent of this Board to an increase of stock, honestly intending to use the same in extending the road or for other legislative purposes. A new board of directors might come into possession of such stock and apply it for an entirely different purpose, and one that would not have authorized the Board in the first instance to have given its consent, and this stock in the hands of innocent holders becomes a part of the capital stock of the road, upon which trade and commerce is tolled to pay ten per cent dividends. In such a supposed case stock is watered and the public suffer. The amendment to the General Railroad Act in 1880, made upon the recommendation of the Hepburn committee, under which this Commission must approve before an increase of capital stock can be made, was for an express purpose, to-wit: to have the authority of the State exercised, by way of approval, before capital stock in a railroad company could be increased. This amendment to the General Railroad Law grew out of a public demand that stock watering and inflation of railroad capital should stop. I assume that the Legislature intended to do something in the amendment to the General Law to prevent capital stock being issued except where cash had been actually expended. It seems to me that this Board should in every case refuse its assent to an increase of capital stock except where the amount asked as increase had been actually expended, as contemplated in the General Act of 1850. In my opinion the only safe rule for this Board to act upon is only to consent to such issue of stock *after* the money, or its equivalent, has been actually paid for lawful purposes. In this view there will be no hardship, as the parties applying (in effect the Rome, Watertown and Ogdensburgh Railroad Company) are abundantly able to raise the small amount of increased capital stock asked for.

The road is clearly entitled to an issue of stock for the cash expended as appears on the books of the company, and as fast as future expenditures are made a corresponding increase of stock should be allowed.

JOHN O'DONNELL,

*Commissioner.*

Attest:

WILLIAM C. HUDSON, *Secretary.*

## IV.

IN THE MATTER OF THE APPLICATION OF THE ATLANTIC AVENUE RAILWAY COMPANY OF BROOKLYN FOR THE APPROVAL OF THE INCREASE OF ITS CAPITAL STOCK FROM \$700,000 TO \$1,000,000.

March 2, 1887.

The preliminary steps required by section 9, of the General Railway Act have been taken herein by the directors and stockholders of the company, and the Board is called upon to determine whether its appeal ought or ought not to be granted.

The report of the accountant is as follows:

Cost of road and equipment, September 30, 1886 .....	\$1,917,347 37
Capital stock outstanding .....	\$700,000
Bonded debt .....	739,500
	<u>1,439,500 00</u>
Balance, represented in floating debt.....	<u>\$477,847 37</u>

Eliminating all questionable items, such as discount on bonds, \$15,000 from the cost of road and equipment, there has been expended over \$400,000 for which no stock or bonds have ever been issued.

No books exist from which the accountant can ascertain the cost of the Brooklyn and Jamaica Railroad, and the South Brooklyn Central Railroad, which roads were bought in and the cost of which to the Atlantic Avenue Railroad Company is included in the cost of its road and equipment.

The affidavits of William Richardson and James S. Suydam, filed with the Board, prove the cost of these lines to have been at least equal to the amount paid for them.

Under these circumstances and upon the evidence before it, the Board deems it proper that it should and it hereby does approve of the increase of the capital stock of the Atlantic Avenue Railroad Company of Brooklyn from \$700,000 to \$1,000,000.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

## V.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN CITY RAILROAD COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$2,000,000 TO \$3,200,000.

June 21, 1887.

The preliminary steps required by section 9 of the General Railroad Act appear to have been regularly taken. Proof is before the Board that at the stockholders' meeting, duly called to consider the ques-

## 100 INCREASE OF CAPITAL STOCK AND ISSUE OF BONDS.

tion, 171,507 shares of stock out of the 200,000 existing shares voted for such increase, and that there were no votes cast in opposition.

The investigation of the books and accounts of the company by the Board shows the financial condition of the company to be as follows:

Total cost of road and equipment to May 1, 1887.....	\$4,153,533 33
Cost of improvements and equipment under contract.....	56,250 00
Total .....	<u>\$4,209,783 33</u>
Capital stock outstanding .....	\$2,000,000
Bonds outstanding .....	800,000
	<u>2,800,000 00</u>
	<u><u>\$1,409,783 33</u></u>

The company it will thus be seen, has expended upon its road and equipment \$1,409,783.33 more than the par value of its entire stock and bonds. This amount is represented by earnings that have gone into construction, and by \$800,000 of floating indebtedness. It follows under well-settled principles that this Board ought to approve of the increase of capital stock asked for, and such approval is hereby given.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## ACCIDENTS.

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### I.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, ON APRIL NINETEENTH, TWO MILES WEST OF ST. JOHNSVILLE, BY WHICH THE ENGINEER, EDWARD KENNAH, WAS KILLED, AND EUGENE WILEY, FIREMAN, FACE AND HEAD BADLY SOALDED, AND ONE PASSENGER IN COACH SLIGHTLY INJURED.

May 3, 1887.

The facts and circumstances attending this accident, as developed by testimony taken before Commissioner Rogers, and by an inspection of the scene of the accident immediately thereafter by the inspector of the Board, were as follows.

It appears that train No. 14, bound east, known as the Western Express, passed East Creek station a little after midnight of April 18th, and when about one mile east of that station, struck a mass of gravel, sod and other material nearly one foot in depth and about 120 feet in length, which also covered the other three tracks, gradually sloping upward from the south track and reaching a depth of about ten feet above the track next to the hill side. At this locality the four tracks of the Central-Hudson road run along the foot of a gravel ridge about sixty or seventy feet in height, which appears to rest on a stratum of clay. The roadbed is about fifteen feet above and directly along the margin of the Mohawk river. It appears from an examination that this ridge is of a loose, gravelly nature, having, if any, stones larger than six inches in diameter; it is very porous and full of water, which issues out in streams at many points, and is collected in a surface-ditch along the roadbed and passed under the tracks through small open culverts. The slope of this ridge, or what might have been that of a side hill cutting when the road was first constructed, has a declination of about one and one-half horizontal to one vertical. At the north the ridge is a plateau about 1,500 feet wide, and then slopes down into a valley, the bottom of which may be twenty feet above the level of the Central-Hudson tracks. In this valley and directly opposite the land-slide of April 19th, is a pond of water several acres in extent, which appears to have no direct outlet, and in the summer season becomes nearly dry. Whether the water from this pond percolates through the gravel ridge, and the unusual amount of snow this past winter increased its volume and thus precipitated the land-slide, is, however, wholly a matter of conjecture. During the entire year more or less water issues into the ditch alongside the railroad. Commencing near the east end of the slide there is a vertical retaining-wall from three to five feet in height, parallel and six feet distant



from the north track and extending easterly over 1,000 feet, with an omission of about 130 feet near its centre, and where may have been a borrowing-pit or, perhaps, a land-slide. The slope and bordering the top of the ridge is covered more or less thickly with trees, some of which are twelve or fourteen inches in diameter, showing that a long period has elapsed since any disturbance of its surface could have occurred. It was stated that recently the surface-ditch at the foot of slope from the west end of the retaining-wall had been widened and deepened, the better to drain the roadbed; this might have aided the sliding of the slope. The sod and timber moved bodily down on the track, and some of the trees remained standing the same as when in their original position. A number of small streams were developed in the pocket remaining after the slide had moved on to the roadbed.

When the before-mentioned train reached the obstruction on its track the engine passed through it, but was derailed and continued along the roadbed for about 180 feet, when it veered to the south and rolled down the slope of the embankment with its forward end nearly at right angles to the track, and was almost entirely submerged in the river. The rear end was just outside the edge of the water. Engineer Edward Kennah was caught under the rear end and died from internal injuries soon after being released. The fireman, Eugene Wiley, was severely injured.

The approaching trains were promptly flagged and further injury from collision thus averted.

It appears that this train passed a freight bound west about two miles west of the slide, showing that a train had safely passed over track No. 3 not more than ten minutes before train No. 14 reached the obstruction. That the disaster was not more serious is a matter for profound thankfulness.

The superintendent of the division testified that for fifty years he had been familiar with this spot, and that no evidence had ever shown itself for a disposition of the earth to slide.

He has now stationed at this dangerous point three watchman by night and two by day. He is taking measures to determine whether the water from the pond percolates through and thus injures the bank; if so, he proposes in some way to dry up the pond and thus avert the likelihood of any further disaster.

These measures appear to be all that can be adopted under the circumstances, and met with the approval of the Board.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## II.

ACCIDENT UPON THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD,  
NEAR GLENDALE, ON JULY 16th, 1887, WHEN WILLIAM REILLY, ENGINEER,  
WAS KILLED.

July 26, 1887.

This accident occurred near the whistling post north of Glendale, about 10:30 P. M., on July 16, 1887, upon a special train conveying the

President and Mrs. Cleveland from Clayton to Alder Creek. The train consisted of locomotive No. 72 and one car. The cause of the accident was the breaking of the side rod connecting the driving wheels on the right hand side of the engine at a point on the rod about four feet from the hind driver connection therewith. The result was that until the train stopped, after running 2,760 feet from the place where the break occurred, the swinging rod ploughed the ground and ties; smashed the tender steps and platform; tore out the engineer's seat and lower portions of the cab, and broke off the pipe running from the boiler to the air brake pump, and other connections. Engineer Riley was thrown, or jumped across the cab against the fireman and went out of the cab on that side and was killed, as the result of striking his head upon the ground and against a fence. The fireman, his brother-in-law, says that as Riley went by him he called to him to "come on."

At the time of the accident the train was running at the rate of from thirty-five to forty miles per hour. The speed had been greater between Clayton and Lowville, but various circumstances to be alluded to seem to indicate that just previous to the accident the engineer had shut off steam, and was preparing to slow down. His instructions from Superintendent Hammond previous to starting were to slow down and run with great care around curves and through stations. Just before the accident occurred the whistle was given for Style's crossing, a highway about a mile north of Glendale. There was a curve ahead, and the train had reached a heavy down grade where it was customary to shut off steam. After the occurrence, John Perego, the fireman, who was thrown by the shock on to the coal bunker, went back into his cab, which was filled with escaping steam. He states that he found the steam shut off, except that the valve supplying steam to the air brake pump was on, about half a turn. This he closed. At the first signal of danger Superintendent Hammond went into the car and tried to pull the valve setting the air brakes, but he found the brake already set. The engineer, had, therefore, shut off steam, and had set the air brakes before, or just as he left his seat. Westinghouse automatic brakes were on the car and tender. They were found to be strongly set when the train stopped and had to be "bled" in order to start the car again. This shows the brakes to have been in good working order. The locomotive in question was built at Schenectady and was known as "No. 1," and the "Wm. J. Bacon," until the Rome, Watertown and Ogdensburgh Railroad Company leased the Utice and Black River road. It was purchased by the old road about ten years ago to replace a previous No. 1. It left the Oswego shops in March last thoroughly repaired and has since been used in regular passenger service. The side rod that broke was of the usual hammered wrought iron variety, and measured one and three-fourths by three and five-eighths inches. This gave it about the usual quantity of metal deemed most effective to resist breakage. The violent pounding and twisting to which the swinging piece was subjected after the break, bent it nearly double without causing any further apparent crack in the fiber of the metal. This would seem to indicate that the metal was good. The exact condition of the place where the metal parted can only be ascertained by means of a careful examination. This the Board proposes to have made in order that some light may be thrown upon the question of

the breaking of side rods, which is of quite frequent occurrence. So far as the Board has thus far ascertained, the accident seems to have been of an unavoidable nature and to have arisen from no neglect of duty on the part of the corporation or of its officers or employees.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

#### SUPPLEMENTARY REPORT.

Since the above report of July 26, a careful examination of a piece of the side-bar has been made by Prof. Palmer C. Ricketts of Troy. He finds there was a flaw in the bar at the point of fracture approximating a square inch in area, thereby diminishing its strength at least one-sixth — the total cross-section being 6.34 square inches. He finds the bar, also, to have been badly welded and badly rolled, there being evidences of crystalline structure near the fracture. Particular stress is to be laid upon the fact, however, that there was no evidence of this crystalline structure having been the result of use, but that the bar was in that condition when it left the shop. Prof. Rickett's language upon that point is as follows: "As is always the case, no evidence exists that this iron had been changed by use, but on the contrary it is believed from careful examination that it was originally of the same character as found."

Tests for a tensile strength, taken of three pieces, showed an elastic limit of 29,800 pounds per square inch, and an ultimate resistance of 46,970 pounds, showing it to have been fairly good iron, although not what should be expected from iron used for such a purpose, the per cent of elongation and reduction of area having been particularly small. The mean of two chemical analyses of the iron, made by Dr. William P. Mason, gives phosphorus .0853, and sulphur .012. Neither of these is too high for good wrought iron.

Prof. Rickett's conclusion is that rods should be made stronger, at least five inches in depth, either of rectangular or I beam section. With regard to the best material to be used, Prof. Ricketts is of the opinion that it has not yet been proved by experience that steel is superior to iron for this purpose, though it has given great satisfaction in many cases, and will probably in time replace it.

It appears to have been overlooked, heretofore, by locomotive engine builders, that the stress induced in side-bars by centrifugal force at high speed is very considerable; possibly greater than that due to the pull or thrust. A full discussion of this subject by Prof. J. B. Johnson, of St. Louis, is to be found in the Railroad Gazette of September 16, 1887. He claims to show that in a side bar of 3 3-4 inches depth by 1 3-4 inches thickness, a stress of 29,000 pounds per square inch is induced in extreme fibres at a speed of seventy miles per hour from this cause alone, independent of the thrust or pull and incomputable causes. A further discussion is to be found in the Railroad Gazette of November 4, 1887, page 711, by Messrs. Johnson and Lindstrom.

As the subject is extremely technical, the Board will not go into it further than to say that it appears to be demonstrated, both theoreti-

cally and practically, that the side-bars of locomotive engines should be materially increased in size, and that the proper cross-section would probably be an I beam of about six inches in depth, the web one inch in thickness and heads 2 5-8 by 7-8 inches, for locomotive passenger engines.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

### III.

IN THE MATTER OF AN ACCIDENT ON THE BROOKLYN ELEVATED RAILROAD,  
ON THE EVENING OF SEPTEMBER 19, 1887.

September 30, 1887.

The facts and circumstances attending the above accident as developed by testimony before Commissioner Rogers, were as follows :

Engine No. 26, with a four-car train, arrived at the red signal between Butler and Wyckoff avenues, at the terminus of the elevated road (where trains cross from the east-bound to the west-bound track to make the return trip), at 7:02 P. M., and stood there waiting for the white signal, or clear track, to run into the station. Engine No. 12 was returning light to the terminus of the road, to take her place on the relay, and was immediately behind engine No. 26 and train, and stopped upon seeing the red lights of that train. Engine No. 5, in charge of Engineer Hollenbeck, left Alabama avenue with a four-car train due at Van Siclen avenue station at 7:05 P. M. He disregarded the red signal in rear of the tender of engine No. 12, and probably ran at an unusual rate of speed after leaving Alabama avenue. The result was he ran into engine No. 12, pushed the latter into the rear of train headed by engine No. 26, with such violence as to do considerable damage to the cars, break the arm of the conductor of No. 26's train, the leg of the fireman of engine No. 5, and more or less seriously injure six passengers.

It has been the custom of the road since its first opening, to cross trains from the east-bound to the west-bound track at this signal post. The signal, it appears, is turned to white to permit a train to cross, and is turned at red when trains are intended to be held. Should there be one or more trains standing to the west of this signal, waiting to cross from one track to the other, there are no precautions taken to protect them except to hang a red lantern on the rear platform, or behind the tender, as the case may be. While this appears to have been sufficient to have prevented accidents heretofore, Hollenbeck claims that on the occasion of the accident the red lantern in rear of the tender of engine No. 12 was so dim as not to attract his attention ; that when he saw the signal turned to white he supposed that it was intended for him, to mean all clear for his train.

It is quite possible, and more than likely, that Hollenbeck was careless upon this occasion and not as alert as he should have been, but the Board is still of the opinion, in view of this accident having taken

place, that another signal should be erected somewhere between Wyckoff and Vermont avenues to protect the rear of any trains standing to the west of the present signal at the entrance to the so-called yard. A signal so constructed should always be at danger when any train is standing between it and the present signal at the entrance to the yard. It could be worked by the same man that works the present signal, and in connection with it.

#### RECOMMENDATION.

The Board, therefore, recommends that the Brooklyn Elevated Railroad Company erect a signal between Wyckoff and Vermont avenues, to be operated in connection with the present signal between Wyckoff and Butler avenues, in such a manner as to warn trains from passing such signal so long as any train is standing between such proposed signal and the present signal at the entrance to the yard.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

#### IV.

IN THE MATTER OF AN ACCIDENT ON THE WEST SHORE RAILROAD ABOUT 2:30 P. M., APRIL 19, ABOUT ONE MILE WEST OF DOWNINGS.

The facts and circumstances attending this accident, as developed by testimony taken before Commissioner Rogers and an inspection of the premises immediately thereafter by the inspector of the Board, were as follows :

At the point in question the double tracks of the West Shore railroad are situated under the foot of a wet, springy side hill, the soil of which is largely composed of quick-sand with occasionally a boulder imbedded. The top of the first crest of the side hill is about twenty feet above the tracks. From the top of the first crest there is a light sloping plateau from thirty to fifty feet wide, and then a steep ascent to the top of the side hill which reaches an elevation of 200 or more feet above the valley. The alignment of the railroad curves outwardly from the hill-side, and the point where the slide occurred can be seen for about 500 feet distance approaching from the west. A vertical retaining wall laid dry, and about three feet in height and ten feet distant, parallels the east-bound or south track for a distance of 300 feet. Near the center of this wall the slip of quick-sand and earth occurred. It passed over the vertical wall, covering the south track about two feet in depth for a distance of thirty feet. A few boulders, averaging less than two feet in diameter, came down with the slide and two or three of these lodged between the rails of the east-bound track. It appears that a blinding snow storm prevailed at the time of the accident, and it also appears that the slide must have occurred after 12:30 P. M. of same day, as a freight train passed safely over the south track about two hours previous to the accident.

About one-third of a mile easterly is a point or headland of the valley, known as the "Little Nose." At this point are heavy side hill rock and earth cuttings, and a watchman is employed night and day.

Train No. 60, bound east, and consisting of a locomotive, one baggage, one smoking and two passenger cars, was on its usual time passing the point of accident, about 2:30 p. m. A few minutes before its expected approach, two ladies were walking towards Downings and, seeing the land-slide, hurried forward and gave the alarm to watchman William Antis, who, after torpedoing the west-bound track, ran toward the point of danger and the approaching train, already within hearing. Antis succeeded in reaching a point ninety feet west of the slide as the train came in view, and gave the usual flag signal for danger. The engineer shut off steam, applied the air-brakes and before reaching the obstruction had slowed down his train to about one-half its usual speed. The engine plowed through the slushy material and stone, but, striking a boulder, it was derailed and was turned over on its side. None of the cars left the rails, no person seriously injured. The prompt action of watchman Antis is commendable.

As is well known, the West Shore railroad is of recent construction and, by reason of the contracted valley of the Mohawk at many points and proximity of the Erie canal, the road was necessarily located into and under the projecting headlands and hill-sides of the valley. Much of the material of the hill-sides, other than ledge-rock, consists of clay, sand and loam, with more or less boulders and gravel intermixed. As yet the slopes of these cuttings have not assumed a perfect rest, and are extremely sensitive to the action of water and frost. At the time of the examination the inspector reports that he found frost and ice covered from one to three feet deep with loose, sliding material, liable to be precipitated upon the railroad track, especially when subjected to rain-falls. The rock slopes have also elements of this danger in the broken fragments and ledges of rock which have become detached by the frosts of the past winter. Considerable has been done, the inspector reports, in cleaning such rock slopes and in removing stumps from and above earth-cuttings. These matters require constant watchfulness.

#### RECOMMENDATION.

The Board recommends that the railroad company take further and extraordinary measures to protect its trains by employing watchmen at all dangerous points, and slowing trains around headlands and through cuttings, until the ground has become thoroughly settled and fully recovered from the effects of the past winter's frosts.

By the Board.

WILLIAM C. HUDSON,

*Secretary.*

## ACCIDENT INQUIRIES.

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### BUFFALO, NEW YORK AND PHILADELPHIA.

October 7, 1886.—At Belfast, conductor F. W. Ingram was killed. Train No. 254 was late and in the time of train No. 56, when it stopped at Belfast for water; it was about to start when train No. 56 ran into it, splitting open the caboose in which conductor Ingram and the flagman were both asleep, with their train unprotected. Inquiry was made asking who, in the opinion of the railroad company, was responsible for the accident besides the conductor, and what, if any, discipline has been administered. The answer was that they held the conductor and flagman both responsible, and that they would have discharged the flagman had he not left of his own accord.

October 9, 1886.—At the Abbott crossing, at Buffalo, Chris. Grinni was injured. Inquiry was made as to whether there were gates or flagman at the crossing, and whether the view was unobstructed. The answer inclosed a diagram showing the Abbott road, and saying that there were neither gates nor flagman, but an uninterrupted view.

January 6, 1887.—At South Carrollton, Miss Julia Sepsh was killed. Inquiry was made as to whether there were any gates or flagman at crossing, and whether the view was unobstructed. The answer was that she was not on a railroad crossing, but was killed while walking on the track.

### DELAWARE AND HUDSON CANAL COMPANY.

October 20, 1886.—Train No. 7 ran into the rear of train No. 5 at Wells Bridge station. Inquiry was made asking for circumstances attending this collision in greater detail; also for the opinion of the railroad authorities as to who was in fault, etc. The answer was that train No. 5 was several hours late, and that they were not making their running time on account of heavy train; they were in the way of train No. 7, and stopped at Wells Bridge that day by special order. The only person at fault, in their opinion, was the train dispatcher, for not notifying train No. 7 that train No. 5 was to stop at Wells Bridge.

December 16, 1886.—George Quilligan, while engaged in uncoupling cars at Binghamton freight yard, caught his foot in the switch, was knocked down and instantly killed. Inquiry was made as to whether there were any blocks in the angle of the switch, or if they have ever tried this means of prevention. Answer said that there were no blocks in the angle of the switch referred to, and stated that this was a Lorenzo safety switch, and the foot was caught between the main and the moving rail, not in the frog.

January 7, 1887.—Henry Basch and Ralph Thomas attempted to drive over the track ahead of train No. 18, at Rockerfelt crossing, two miles west of Albany. The engine struck the cutter, throwing both men down an embankment, killing Thomas and injuring Basch. Inquiry shows that there were neither a flagman nor gates at the crossing, and the view was partly obstructed.

January 21, 1887.—At Fort Edward, brakeman Con Kearney was knocked off of car by iron bridge and was injured. Inquiry of the company brought the answer that there were no warning signals at the bridge on account of its being 18½ feet high in the clear, and it was considered ample.

February 27, 1887.—Mr. McKee was injured while driving on the track at Dunham's Basin. The company was written to asking if the track was on the highway; if not, to explain how the team was on the track. The answer was that the track was not on a highway, and the man was driving up the roadbed.

June 17, 1887.—William Secor was killed in attempting to drive across the track at East Worcester. In reply to our inquiries the company stated that the crossing was not protected by either a gate or flagman, but the view was unobstructed.

July 4, 1887.—Charles Van Arnum and Miss Emma Churchill, while attempting to cross track at Knowersville, were struck by the engine and killed. In reply to our inquiries the company said that there were no gates at the crossing referred to, but there was an unobstructed view of the highway for at least one-half a mile in either direction.

August 1, 1887.—At Fort Edward, main line passenger train No. 5, as usual, cut off coach for Glens Falls branch south of the branch switch. Attached to the south end of coach was G. G. Green's private car No. 5. They pulled into the depot yard and transferred its baggage to the branch train, the conductor of which assumed charge of the coaches when they were cut off. His brakeman had orders to protect the coaches, and claims that he was doing so. The "wild cat" freight train, however, ran into Fort Edward at a speed not in accordance with the rules of the company, and struck the coaches at the same moment that Mrs. W. H. Lyell, with her daughter, Miss Edith H. Lyell, jumped from the north end of the platform of the coach. They were thrown on the track and run over, Mrs. Lyell being instantly killed and her daughter surviving but a short time. The Board wrote, asking what discipline had been administered by the company to the employees in fault, also whether the employees have been indicted by the grand jury. The answer was that the conductor and engineer of the freight train were dismissed from the company's service, and that they, with the conductor and brakeman of the passenger train were arrested and held for the grand jury. Later in the month the Board again wrote, asking for the action of the grand jury, and in reply the company informed us that the jury of Washington county had not yet convened.



## ELMIRA, CORTLAND AND NORTHERN.

March 16, 1887.—One and a half miles west of Park station the baggage car and two coaches were derailed, turning the two coaches over on their side, and injuring the following passengers: A. P. Rumsey, Philip Reidinger, S. M. Peters, Lewis Woolf, Matthew Hart, H. B. Swartwood, Mrs. Ellen Swartwood, Mrs. Anna Trumball, W. J. Horton, F. W. Webster, Abe L. Block and Arthur Terry. The cause is unknown. Inquiry was made as to whether the road had made any further investigation as to the cause of this accident. The answer was that they had investigated the matter as thoroughly as possible and were unable to ascertain its cause.

August 9, 1887.—A Delaware, Lackawanna and Western Railroad switch engine, with ten or twelve cars, went on the main track of the Elmira, Cortland and Northern railroad at Elmira, and ran into one of the Elmira, Cortland and Northern trains, injuring brakeman Lucas. Inquiry was made as to whether the road had made any investigation as to the fault, and what, if any discipline had been administered; the Board also asked for an account of the accident in greater detail. The answer was as follows: Engine No. 23, train No. 10, with five box cars and a caboose, while running along on our main track met Delaware and Lackawanna's switch engine No. 79, coming off their freight-house track with ten or twelve cars on to our main track; they had no flag nor signal of any kind out for protection; our men are in no manner at fault.

September 12, 1887.—John P. Sullivan, (employee) was killed in a collision at Cazenovia. The Board wrote asking who in the opinion of the road was in fault, and what, if any, discipline had been administered. The answer was that they, as well as the coroner, could blame no one but the unfortunate man; the engineer states that after pushing the twenty cars back on the sliding, which is on a forty-foot grade, he asked Sullivan, after he had pulled the pin, if they would stand, and Sullivan replied that they were all right, and gave him the lantern signal to go ahead; he then jumped on the step of the engine, just as the cars left on track commenced to move; this caused the collision which resulted in the death of Sullivan.

## FONDA, JOHNSTOWN AND GLOVERSVILLE.

December 25, 1886.—At Fonda, Simeon Wemple was injured crossing track. The company replied to inquiries that there were neither gates nor a flagman at the crossing.

## LONG ISLAND.

October 2, 1886.—At St. James Place, William M. Henry attempted to cross track immediately in front of the engine; he was struck and seriously injured. In answer to an inquiry, the company states that the street is amply protected by an iron fence which closes up the crossing, with the exception of a narrow opening, three feet wide, for foot crossing only; they have neither gates nor a flagman for the reason that they do not consider it necessary. The view is unobstructed.

January 8, 1887.—L. Wick of Southampton, attempted to drive across track in front of engine; he was struck and slightly injured

Inquiry developed the fact that they did not have either gates or a flagman at the crossing; the view was unobstructed.

April 4, 1887.—Brakeman John Ryan was struck by the second overhead bridge at Jamaica, as the car was passing under it, and instantly killed. In reply to our inquiries as to whether the bridge was protected by warning signals or not, the road states that the bridge ticklers were erected at that point over three years ago.

September 2, 1887.—William Shultz was struck by a bridge at Fresh Pond and instantly killed. In reply to an inquiry made by the Board as to whether the bridge was protected with proper warning signals, in accordance with statute, the company stated that at the time of accident the bridge was unprotected on account of its height, but since the accident it has been supplied with the usual warning signals.

MANHATTAN ELEVATED.

March 8, 1887.—At 6:45 A. M., on this date, at Fourteenth street and Third avenue, the trains were blocked by reason of a fire; in attempting to climb on and off the cars a number were badly injured and killed. The facts brought forth by inquiry on the part of the Board were as follows:

NEW YORK, March, 10, 1887.

To the Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN—\* \* \* The primary cause of the accident was the fire which occurred at 4:50 A. M. in the establishment of Nicoll the tailor, on the Bowery near Broome street, detaining trains and blocking the north-bound track between Grand and Houston streets. The usual block signals were at once sent over the line, and our night train officials arranged to turn south-bound trains at Ninth street, at which point we have a cross-over. The territory and facilities, however, being somewhat limited, a detention of six (6) minutes occurred at 6:42 A. M., stopping a train at Fourteenth street, south track, and a second one immediately north of the station. These trains were principally filled with laboring men anxious to reach their work, and despite the remonstrances and efforts of our train men, many of them left the cars and started to reach the station by way of the track walk, which is about three (3) feet wide. During this time the track was cleared and the train just north of the station started slowly toward the platform, whereupon one of the passengers endeavored to climb from the track walk to the forward platform of the second car. This action caused the lower portion of his body to protrude beyond the side of the car sufficiently to strike other passengers. This resulted in eleven (11) of them falling to the street, and sustaining injuries from which four (4) have since died; the others are reported as convalescent. The passenger whose foolhardy attempt resulted so disastrously escaped injury by clinging to the car, and all efforts to find him have thus far proven unsuccessful. A full investigation is now in progress, and a further report will be forwarded at the earliest practicable date.

Respectfully yours,

F. K. HAIN,

General Manager.

The following is the list of killed and injured:

*Killed.*

Patrick McCabe, 337 East Seventy-ninth street.

Patrick Matthews, 417 East Twenty-fourth street.

Judas Sinal, 170 East Seventy-fourth street.

William Bergen, 201 East Seventy-fourth street.

*Injured.*

William Kennedy, 212 East Eighty-fourth street, general bruises and shock.

James Lyon, 166 East Eighty-eighth street, general bruises and fractured wrist.

Richard Shoemaker, 1667 Avenue A, fractured thigh.

William Doyle, 743 Third avenue, concussion of the brain.

Emil Weller, 207 East Ninety-third street, fractured thigh.

Jose Girandier, 333 East Thirty-eighth street, general bruises.

Albert Lum, 119 East Ninety-second street, fractured nose.

No employees were killed or injured.

January 11, 1887.—A collision took place on this road at Fifty-third street and Eighth avenue. The following communication set forth the facts:

MANHATTAN RAILWAY COMPANY  
GENERAL MANAGER'S OFFICE, No. 71 BROADWAY, }  
New York, January 21st, 1887.

*To the Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN—For your information I beg to submit the following statement relative to the collision at Fifty-third street and Eighth avenue, on the 11th inst:

In order to carry baggage from the center of the city to the New York City and Northern Railroad, which connects with our line at One Hundred and Fifty-fifth street and Eighth avenue, we run a baggage train between that point and Fifty-third street and Eighth avenue station, which adjoins the freight station of the aforesaid road. This train consists of an engine and car, and in making its trips it enters the middle track at the east end of Fifty-third street station from the south track at A, and stands in the middle track until ready to return to One Hundred and Fifty-fifth street, when it runs out on north track at B.

On this occasion, however, a disabled passenger coach, with broken draw bar on south end, had been cut out of a north bound train at this point and backed in on middle track at west end of Fifty-third street station, and Baggage Conductor H. J. Hough-taling, who has been in our service seven years, was ordered, at 6:40 P. M., to take it to the shop at One Hundred and Forty-fifth street and Eighth avenue for repairs. As he could not pass by the coach on the middle track, he was compelled to move up north track and back into middle track at C, which he did, first protecting himself against approaching north-bound trains by a signal man. After coupling on to north end of the disabled coach he went forward to open switch C, leading to north track, but threw the lever opening the south track switch D. He immediately discovered his error, but before he could replace the switch an approaching south-bound train had entered it and collided with baggage car at E, derailing and damaging the north truck and blocking the track. It was necessary to send for an extra truck to replace the damaged one and the track was blocked for six hours, during which time Ninth avenue trains were operated to accommodate west side passengers, and Sixth avenue was operated between Central Park and South Ferry.

The switches indicated C and D are of the Wharton type, with levers lying parallel and close together, and had not been called into service before for at least three years.

Respectfully yours,

F. K. HAIN,

*General Manager.*

## NEW YORK CENTRAL AND HUDSON RIVER.

October 25, 1886. — At Low Point train ran over and killed Samuel Adkins. Inquiry was made as to whether there were any gates or flagman at crossing, and whether the view was unobstructed. The answer enclosed a diagram showing the crossing, and saying that there were neither gates nor flagman, but an uninterrupted view.

November 2, 1886. — Mrs. Catherine Vietland (aged 104), while attempting to cross the track at Forty-eighth street and Eleventh avenue was struck and injured. Inquiry shows that the crossing was not protected by either a gate or flagman, but view was unobstructed.

November 19, 1886. — At Scarsdale, Paul Billenge was killed while crossing the track. Inquiry was made as to whether there were any gates or flagman, and if not, was view uninterrupted. Answer shows that the accident did not happen on a crossing; the man was walking on the track between Hartsdale and Scarsdale, and the verdict of the coroner's jury had exonerated the employees from all blame.

December 4, 1886. — S. Burke, a resident of Olean, N. Y., attempted to board a moving train at the Union depot in Troy, and, in doing so, he was caught between the train and stone pillar of the depot and was fatally injured, his skull being crushed. Inquiry was at once made by the Board as to whether the recommendation of October, 1886 (page 160, Fourth Annual Report), had been complied with, advising the removal of the pillars, as the space between train and pillars was too little. The answer was that the work had not yet been begun, but would be shortly. The depot building is now under process of remodeling.

December 23, 1886. — Michael Oschomzock, while attempting to cross the track in front of train No. 2, at Buffalo, was struck and injured. In reply to an inquiry the Board was informed that the accident occurred at 6:43 A. M., and that the flagman at this crossing works twelve hours daily—from 7 A. M. to 7 P. M. The view is entirely unobstructed.

December 28, 1886. — Joyce Macklem was reported injured while attempting to drive across the track at Niagara Falls. In answer to the inquiry as to whether there were gates or a flagman at the crossing, the general superintendent replied that the crossing at the time of the accident was protected by a flagman, and that he made every effort to stop the driver.

January 4, 1887. — At Utica, Joseph Northup was killed while crossing track. The reply to inquiry shows that the man killed was the flagman in charge of the crossing; he had been in the employ of the company for more than forty years.

January 7, 1887. — At Fairmount, Wm. Manning was injured in a collision caused by engine No. 135 running into train No. 26. The Board wrote to the road asking for account of accident in greater detail, and also, as to who was in fault in their opinion. Answer shows that Engineer Zimmer, of engine No. 135, was solely responsible for the accident, and has been discharged; he had a specified time of twenty-one minutes to run to Fairmount, a distance of less than six miles, with orders to stop there and wait for train No. 26, which he failed to do; it is the opinion of the railroad authorities that he forgot all about train, No. 26, and did not intend to stop at Fairmount as ordered.

February 7, 1887. — Mary Kane was killed at Rome while attempting to cross the track; the flagman had stopped a train coming from the north, and was between two trains when the girl started to cross the track; the gates were not in working order. Inquiry shows that view was unobstructed.

June 10, 1887. — A portion of train No. 10 was derailed at Spuyten Duyvil, injuring Mr. W. H. Boardman. In reply to inquiries the road states that the accident was caused by the breaking of a switch rod.

July 4, 1887. — John Silas, while stealing a ride on dairy train No. 24, hit his head against a bridge at Batavia, and was slightly injured. Inquiry was made as to whether there were any warning signals at bridge or not. The answer shows that the bridge had proper signals, and that they were in good order.

July 11, 1887. — Wm. Conover was hit by bridge at Buffalo, while stealing a ride, and was killed. In reply to inquiries the road says that the bridge is one of some length, and as it covers a system of tracks it would be difficult to have warning signals.

July 18, 1887. — Edward Mahoney was caught between two cars at Thirty-fourth street and Eleventh avenue, and badly injured, one of the cars having no bumper. Inquiry shows that the bumper of this car was pulled out in transit upon the line of the road; and as is the custom in such cases the cars were chained together and hauled to destination; such cars are always repaired before leaving New York.

September 21, 1887. — John Goodman was killed at Lockport, while attempting to cross track. The company in answer to inquiries state that the crossing is unprotected, but the view is entirely clear from obstruction.

September 23, 1887. — Mrs. Nelson Hoxie and Mrs. Hila Pickering, were badly injured while driving across the track at Auburn. In reply to inquiries as to whether there were any gates or a flagman at the crossing or not, the road informed the Board that the crossing was not protected by either a gate or a flagman, but the view of crossing was perfectly clear.

#### NEW YORK, LAKE ERIE AND WESTERN.

October 7, 1886. — James Mullen was killed at Batavia while crossing tracks. Inquiry was made as to whether there were gates or a flagman at crossing, and whether the view was unobstructed. The answer was that there were neither gates or flagman, and that the view is somewhat obstructed.

November 2, 1886. — Through an error in the train dispatcher's order trains Nos. 1 and 4 collided at Hinsdale, injuring the following people: Passengers, Mrs. Mary Goldstein and George S. Sanford; employees, Isaac S. Lanning, fireman, and John Wilkins, baggageman. In reply to inquiries asking for circumstances in greater detail, and for name and age of train dispatcher; also for the length of time he had been on duty, they stated that the train dispatcher's name was D. C. Yost; he is thirty years of age, and had been on duty seven (7) hours and fifteen (15) minutes. In giving train No. 4 their order to meet train No. 1 at Hinsdale he added the words "keep main track," but omitted to say in the order to train No. 1 that train No. 4 would keep

the main track. This caused the collision. Train dispatcher has been dismissed from the company's service.

November 2, 1886.—George Decker was injured at Salamanca while crossing track. In reply to inquiry the company informed the Board that the crossing was protected by a flagman, but at the time of the accident he was at dinner.

November 22, 1886.—At Cameron, M. E. Crane was killed while attempting to cross the track. Inquiry shows that the crossing is unprotected, and to people approaching the track from the south the view is obstructed by a small embankment. In reply to a second inquiry asking why it was not practicable to remove this embankment, they state that its removal should be attended to at once.

November 26, 1886.—At Sloatsburgh, trains Nos. 13 and 38 collided, injuring the following employees: David C. Blanch and A. Bell. The Board wrote asking for the circumstances of collision, and who, in the opinion of the road, was in fault. The answer was that train No. 38, an east-bound freight train, crossed over to the west-bound track to let train No. 8, an east-bound passenger train, pass. A flagman was sent out to flag train No. 13, which was due on the west-bound track. He did not go out the prescribed distance, and the air brakes on train No. 13 were out of order. The engineer and conductor of train No. 13 have been suspended, and the flagman of train No. 38 dismissed.

December 5, 1886.—At Middletown, Isaac Dailey and Hector Conklin were injured while crossing track. The company informed the Board in reply to an inquiry that there was a flagman at this crossing, but he was not on duty on the day of the accident (Sunday) until 9 A. M. The accident occurred at 7 A. M. The view is obstructed by build-ings, and they have arranged to erect gates.

December 9, 1886.—E. C. Comfort and Amos Breese were killed at Wallsburgh while attempting to cross track. Inquiry was made as to whether there were gates or a flagman at crossing, and whether the view was unobstructed. The answer was that there were neither gates nor flagman, and view was obstructed by a passing freight train.

December 10, 1886.—Lewis Richards, while attempting to drive across track at Corning, was struck and instantly killed. In reply to inquiries the company said that the view in either direction is unobstructed for a long distance.

December 27, 1886.—Employee Fred. M. Hallett hit his head against a bridge at Hinsdale and was injured. Inquiry was made, asking if there were any bridge warning signals in accordance with section 2 of chapter 439, Laws of 1884, and if not, why not. The answer was that there were signals at Hinsdale and they were in good condition.

January 4, 1887.—At Buffalo Wm. Shackelton was injured while attempting to cross the track with a wagon-load of corn. He paid no attention to the flagman at the crossing. Inquiry shows that the view is unobstructed.

January 4, 1887.—In a collision at Southport the following employees were injured: David N. Wheeler, Martin Griffin, E. L. Reed, F. A. Moore, George Newberry, A. J. Wallace, George Fletcher, D. L. Loghey and E. Cromwell. On March first the company were written to asking for details of accident, and also asking why it had not been reported before, it having occurred on January fourth. The answer was that



conductor Wheeler with engine 524 was on the west-bound track and in the time of train No. 13, a first-class train, without an order to be there, and without taking the necessary steps to protect his engine against No. 13. The investigation which followed the accident (and causing the delay of the report) shows that conductor Wheeler and engineer both had forgotten about train No. 13. They have been dismissed.

January 10, 1887.—C. B. Robinson and Mrs. C. B. Robinson, while attempting to drive across track at Dalton, were struck and injured. In reply to inquiries the company stated that the crossing was not protected by either a gate or a flagman, and the view at the time of accident was obstructed by a passing freight.

January 13, 1887.—At Howells, train No. 4 left the track, injuring the following passengers: W. Henry and Ross Rue; employees, Thos. Hyland and George Huller. We wrote, asking for the circumstances as to why train left the track. The answer was that they had made a thorough investigation and were unable to ascertain the cause of derailment, the track being in good condition.

February 5, 1887.—While crossing the track at Friendship, Mrs. E. McClure was struck and injured. The company, in response to our inquiries, stated that there were neither gates or flagman at the crossing, but the view was unobstructed.

March 23, 1887.—On this date Daniel Condon, a switchman, was injured in the yard at Salamanca, N. Y. The cause of the accident, as elicited by the inquiry of the Board, was that J. W. O'Brien, the regular switchman, leaving his post, made arrangement with a brakeman, J. W. Clawson, to close the switch which connected with the main track, but Clawson closed another adjoining the main track, and the result was that a passenger train ran into the rear of a freight train standing on the siding, slightly injuring in the crash another switchman—Condon. The road reported the dismissal of both O'Brien and Clawson.

March 25, 1887.—In a collision at Salamanca, caused by a misplaced switch, brakeman John B. Dillon was injured. The Board wrote to the company asking who was responsible for misplaced switch, and what, if any, discipline has been administered; also, what kind of a switch they had in use. Answer shows that head-switchman, J. W. O'Brien, whose duty it was to let all trains into the yard, was responsible for the accident, and has been discharged. Instead of personally attending to his duty, he made arrangement with a brakeman, J. W. Clawson, to close the switch, and he closed the one on an adjoining track. Clawson has been dismissed for his carelessness. The switch was a street switch.

April 25, 1887.—At Tonawanda, John Burns while crossing track was struck and killed. Inquiry shows that the view was obstructed by lumber piles on both sides of the track, which have since been removed.

May 16, 1887.—Uriah Hecker, while attempting to drive across the track at Nanuet, was injured. The company replied to inquiries that there were no gates or flagman, the view was unobstructed, and in the case of above accident the train was standing still. The horse took fright, gave a sudden jump and turned over carriage, but neither man, horse nor carriage came in contact with the train at all.

June 14, 1887.—John Boylan was exercising a trotting horse hitched to a sulky, and while crossing the tracks at Corning was struck by engine and killed. The company states in reply to inquiries that the crossing was unprotected and the view somewhat obstructed.

September 4, 1887.—Five miles east of Avon, the rear end of wild west train (engine 68), was derailed and ran against the truss of a bridge. Thomas Whitson, Jr., of Elmira, who was in charge of some horses in car No. 3777, was killed. The Board wrote asking for the cause of derailment, and also whether the bridge was injured or not. The reply was that the derailment was caused by a loose wheel under one of the cars, and that car No. 3771, struck the south truss of the bridge, breaking it down.

#### NEW YORK, NEW HAVEN AND HARTFORD.

March 5, 1887.—James Thompson, brakeman on special freight train, hit his head against bridge at Mt. Vernon, and was slightly injured. Inquiry shows that the bridge-warning signals were up and in good order.

June 20, 1887.—George Chappel, brakeman on extra freight train, was hit by overhead bridge at West Farms and injured. Inquiry was made as to whether there were any bridge-warning signals in accordance with statute, and if not, why not. The answer was that they were in error in stating that the man Chappel was struck by bridge. The fact is, he was struck by the bridge guard, and it surprised him so that he fell.

#### NEW YORK, ONTARIO AND WESTERN.

November 10, 1886.—The following people were injured at Middletown while attempting to cross track ahead of train No. 30: W. B. Miller, Mrs. W. B. Miller and Mrs. Wm. Knapp. Inquiry shows that the crossing is unprotected by either a gate or a flagman, and the view is somewhat obstructed; but in this case the injury to the people was caused by the horse, who became frightened and upset the wagon about fifty feet from the crossing.

November 24, 1887.—A man named Enos attempted to cross the track at Randallville and was killed. Inquiry shows that the view is entirely unobstructed, but the crossing was unprotected.

June 8, 1887.—Jesse Booth was injured at Campbell while attempting to cross track. Inquiry shows that the crossing is unprotected, but the best of care is always used by engineers; they always run very slow at this point.

#### ROME, WATERTOWN AND OGDENSBURGH.

December 4, 1886.—John Kayler turned while driving from the highway on the track at Webster, and had gone but a short distance when wagon was struck by engine. Inquiry shows that the crossing was a highway crossing, and the man was deliberately driving down track.



## SYRACUSE, BINGHAMTON AND NEW YORK.

December 17, 1886.—George White and James Dodd, while attempting to cross the track at Ithaca, were struck by engine and slightly injured. Inquiry shows that the crossing is not protected by either a gate or a flagman, but the view is unobstructed.

## WEST SHORE.

October 19, 1886.—John Parcell attempted to cross track in front of train No. 57 at New Scotland station; he was struck by engine and received injuries from which he died. Inquiry shows that the crossing is unprotected on account of its unobstructed character.

February 21, 1887.—Moses Rose was struck by engine while crossing track at Tompkins' Cove and killed. In reply to an inquiry as to whether the crossing was protected or not, the company informed the Board that the crossing is a private one, and therefore unprotected; but the view is entirely unobstructed for at least eight hundred feet in either direction.

April 13, 1887.—Engine overturned at Newburgh, injuring employee T. Dickerson. Inquiry was made as to the reason and circumstances of engine overturning. The answer was that the engine left the track at a blind switch in the siding, while backing out to the main track, and there was enough of an embankment to tip the engine over.

June 3, 1887.—William Prince, engineer of train No. 119, jumped from his engine at Esopus to avoid a collision and was injured. The Board wrote asking why rear of train was not protected by sending back flagman, also if investigation has been made by the company and if any discipline has been administered? The answer was that when train stopped at Esopus for water, flagman Church was promptly dispatched to protect it against following trains. After engine had taken water he was called in, and, while running to take his place, the whistle of train No. 119, for Esopus station, was heard about a mile away. In order to make sure and get out of the way of train No. 119, the engineer of the west train attempted to get his train under quick motion, and, in doing so, pulled out a draw-head, leaving the rear portion of his train (which consisted of gravel cars) standing on track. Church was again sent back, but it was then too late to avoid collision. Church has been dismissed from the service for not placing torpedoes on the rail, as he should have done. The conductor of train No. 119 was also dismissed for running his train too fast, and the engineer of same train suspended.

June 4, 1887.—Wm. M. Taber, while attempting to cross the track at Alabama, was struck by engine of freight train No. 105 and injured about the body. In reply to an inquiry, the road sent a tracing showing that the crossing was unobstructed, and a letter stating that the crossing was not protected by either a gate or flagman.

August 28, 1887.—Passenger Alex. Kenney was killed at Montezuma in a collision, caused by train No. 102 running into train 2d, No. 53, while being pulled out of siding engineer, J. D. Miller, was injured while attempting to jump from engine in order to escape collision. The Board wrote, asking for circumstances in greater detail; also as to who was in fault, and what, if any, discipline had been administered. The reply was:

WEST SHORE RAILROAD,  
N. Y. C. & H. R. R. Co., LESSEE, NO. 5 VANDERBILT AVE., }  
NEW YORK, October 8, 1887.

*To the Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN—The entire responsibility for the accident rests upon the crew of the freight train, and every man on it was discharged. The accident was the result of a very singular combination of circumstances, and I fail to see how any human foresight on the part of the management could have prevented it. The circumstances are about as follows: The freight train was upon the side track at Montezuma waiting for train 53, which latter train, during the heavy travel of the summer months, almost invariably runs in two sections. The book of rules requires that any train carrying flags for a succeeding section shall give three blasts of the whistle approaching a train on a siding, as a notice to such train to take cognizance of such signals for a succeeding section. The rules further require that this signal shall be answered by the train at rest by two blasts of the whistle, as an indication that the engineer of the latter train acknowledges that he has heard the signal. The engineer of the train carrying the flags is required to stop unless he gets the answer.

In this instance he gave the required signals and received the answer, but it appears from the evidence that the engineer and firemen of the freight train were both asleep, and that, hearing the passenger train pass, and assuming that there was but one section or that both had passed, gave the two blasts of the whistle, intending it for a signal to let off brakes and start, which they did with the results reported.

I have thought over the matter a great deal, and as yet fail to see how any rule could be made that would cover a case of this kind.

Very truly yours,

J. D. LAYNG,  
*General Manager.*

September 10, 1887.—Hook and ladder truck No. 2 was run into by train No. 53, at Syracuse, while attempting to cross the track, Joseph Hooker was killed and the following injured: Albert Scherff, Andrew Wolfrom, and James Sanderson. Inquiry was made as to whether the crossing was protected or not. The answer was that the crossing has always been protected by a flagman during the day, but at the time of accident (which was at night) the flagman was off duty and the crossing unprotected. At the request of the city authorities of Syracuse a night flagman has been stationed there.

## CROSSINGS AT GRADE.

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### I.

#### TOWN OF PITTSBURY V. THE TROY AND BOSTON RAILROAD COMPANY.

October 18, 1886.

The village authorities petitioned the Board to take steps to secure greater protection at the Troy and Boston railroad crossing in that town, at which a short time previous the wife of the Rev. Emerson Blanchard had been killed, and at which a large number have been injured. Subsequently the authorities determined to first take proceedings, under chapter 439, Laws of 1884, and appeal to the courts, and for that purpose withdrew the complaint.

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### II.

#### EDWARD C. WALKER V. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

November 2, 1886.

The complaint was of the dangerous condition of the East Main street crossing in the village of Batavia; that the cars coming from the east could not be seen until the observer was within a few feet of the track, and that the same difficulty existed as to those coming from the west. Many serious accidents had occurred, and only the week previous (October 11) a man had been killed. The request was for the stationing of a flagman.

The company promptly responded that it would at once place an electric signal at the crossing. Subsequently this was done, and so far as the Board is informed, works satisfactorily.

## III.

## VILLAGE OF MEDINA V. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

December 19, 1886.

The complaint was that the railroad crossing at West street in Medina was dangerous, as it was largely traveled; and the appeal was for either the stationing of a flagman or the erection of gates at the crossing.

In answer, the company pointed out that for thirty years there had been no accident at the point complained of, and in a few days the old water-tank on one side and a building on the opposite side would be cleared away, when the view would be unobstructed.

The village replied that the clearing away of the tank and the building would not help matters, and repeated that better protection was required.

Subsequently the company promised both the village authorities and a member of the Board that a flagman should be placed at the point complained of, and on December 18 the Board was informed that a man was so stationed.

## IV.

## IN THE MATTER OF AN APPLICATION OF THE COMMON COUNCIL, THE LUMBER EXCHANGE AND OTHER CITIZENS OF THE CITY OF BUFFALO FOR RELIEF FROM THE INCONVENIENCES AND DANGERS OF THE GRADE CROSSINGS OF THE VARIOUS RAILROADS CENTERING IN THAT CITY.

The following request from the common council of the city of Buffalo, dated April 13, 1887, was duly received by the Board, to wit: "That an invitation be extended to the said Railroad Commissioners to inspect the entire system of railroad approaches entering the city, with a view to securing their recommendation of a comprehensive plan for 'elevating the tracks over street crossings, or otherwise providing suitable remedies.'"

A communication from the Buffalo Lumber Exchange, dated May 23, 1887, was also received. This application for relief drew special attention to the "crowded condition of the railroad crossings at the grade of Washington, Michigan, Chicago and Louisiana streets."

Due notice of a public hearing was given and the same was held at Buffalo on the 7th day of June, 1887. The city in its corporate capacity, the Lumber Exchange and other citizens in interest were very numerously represented. The crossings complained of were inspected by the Board in company with the president of the common council and others, and a full knowledge of the grievances complained of and the difficulties in the way of their removal was obtained. The inspector of the Board, Mr. Thomas W. Spencer, was immediately ordered to proceed to Buffalo, make a careful investigation, survey and drawings of the crossings complained of and prepare a plan to remedy the evils. Invitations were also extended to the railroad companies to co-operate with him. A report from Mr. Spencer, in detail,

dated July 26, 1887, was presented to the Board and is made part of this report. It was printed, copies sent to the railroads and complainants and other parties in interest, and a public hearing set in Albany for September 13. Maps and plans accompanying Mr. Spencer's report were filed with the city clerk at Buffalo, and also in the office of the Railroad Commission at Albany, and the railroad companies were requested to inspect the same and show cause at Albany on the hearing set down then on September the 13th, what modifications they would suggest in Mr. Spencer's report, and also to make such other suggestions as would seem to them desirable. On the day in question, viz., September 13, the railroad companies represented by their counsel, appeared at Albany, as did also a large delegation of merchants and citizens from Buffalo, expecting that a full and free discussion of the subject would then take place. The railroad companies, however, through their counsel, Hon. D. H. McMillan and others, stated that in consequence of its having been mid-summer their engineers had been unable to give the subject attention and that they were not prepared at that time to intelligently discuss it and requested an adjournment to a later day, promising that at the adjourned meeting plans would be presented by the railroad companies which they hoped would satisfactorily relieve the grievances complained of. The request was granted, and an adjourned meeting was held at Buffalo in the common council chamber, Wednesday, October the 19th. It was largely attended by citizens and representative men, also by the railroad officials.

The report of Mr. Spencer, in general terms, provided for the elevation of the passenger and freight tracks leading to the lower freight depot of the New York Central and Hudson River railroad, the passenger tracks and car-load freight tracks of the Erie railroad, and the passenger tracks of the Lake Shore railroad from Washington to Alabama street, between Exchange street and the Hamburg canal. Certain other measures of relief with regard to other streets were also proposed by Mr. Spencer, to which attention will be drawn hereafter.

The railroad companies, in a report signed by Mr. Katte, chief engineer of the New York Central and Hudson River Railroad Company; Mr. Buckholz, engineer of bridges, etc., of the New York, Lake Erie and Western Railroad Company; G. R. Hardy, chief engineer of the Lake Shore and Michigan Southern Railroad Company, and D. M. McCreery, engineer of maintenance of way of the Buffalo, New York and Philadelphia Railroad Company, agreed with certain recommendations of Mr. Spencer, which might be regarded as minor, but totally disagreed as to the plan of elevating the tracks of the railroads between Alabama and Michigan streets, but proposed instead thereof to erect a bridge on Louisiana street, close Chicago street, and leave Michigan street in its present condition. The estimated cost, exclusive of damages to abutting property holders, was \$46,000 to the railroads, \$21,000 to the city; the city also to pay all damages to abutting property holders, whatever that might be. A vague hint was also thrown out by the counsel of the railroads as to some comprehensive plan then under consideration by the various companies that would cure all the evils complained of. But as he positively declined to explain it, the Board cannot be expected to give it any weight

in this discussion. A copy of the engineer's report is appended hereto. No criticism in detail of the estimates of Mr. Spencer was made; nor, indeed, was any objection raised in the discussion to which special attention can be drawn. It is to be presumed that the railroads object principally upon the ground of the expense to which they might be put, although the estimates of Mr. Spencer, made in detail, show that the raising of such tracks between the streets named would come within the sum of \$410,678. Inasmuch as these estimates were made with great care, and that no attempt upon the part of the railroad companies has been made to disprove their accuracy, the Board assumes that the work can be done for the sum named, and the question, therefore, narrows itself down to one of expediency.

It is proper to state here, as was frequently called attention to at the hearings, that the Board has no power to enforce any recommendation it may make with reference to this matter, nor is there any procedure of law by which grievances of this character can be relieved. The attention of the Board has been called to numerous instances throughout the State of a similar character, and to meet them it has recommended to two successive legislatures, unfortunately without success, an amendment to the General Railroad Law, to the effect that in such cases either the local authorities or the railroads may apply to the Supreme Court for the appointment of a commission, which shall have the authority to determine what kind of relief shall be afforded, whether bridge, elevation of tracks or other method; that such commission shall determine the proportion of expense to be borne by the railroads, municipal corporation, town or county, and also the damages to property holders, so that all parties in interest shall be protected and conserved; that the report of such commission, when confirmed by the Supreme Court, shall be binding and enforceable.

In the absence of such provision of law, this Board can only extend its good offices, so to speak, and act as mediator between opposing interests.

It is also to be kept in mind that, notwithstanding the great inconveniences and dangers the public is suffering from by reason of these railroads running on the streets, after all they are legally there and have vested rights. Consequently, if the grievances are to be removed it is but just that the city should pay a fair proportion of the expense of such removal.

The Board trusts that, in presenting this, its recommendation for such removal, the city and railroad authorities will reach an agreement as to the expense to be borne by each.

In the absence of such agreement no redress can be had by the city until further legislation be passed, about which there is always great uncertainty.

Everybody who has had occasion to inspect the railroad system, or lack of system, within the city limits of Buffalo, is aware of the labyrinths of tracks crossing and recrossing the streets, and of the very great difficulties involved in relieving the dangers and inconveniences incident thereto. In a general way, however, it may be said that the tracks in that portion of the city south of the Hamburg canal and west of Alabama street, are so closely connected with manufacturing and industrial establishments, elevators, etc., etc., that to elevate them

would so seriously interfere with the industries of Buffalo as to be inexpedient if not impossible. To the north and west of this section the elevation of the entire system, at present, certainly would be exceedingly expensive and probably undesirable. The Board deems, however, that in the future such elevation will not only be desirable, but absolutely necessary, and any plan for present relief which does not take this into consideration would be very unwise. For that reason, as well as it being in the judgment of the Board the best possible method for relieving the press of business at Washington, Michigan, Chicago and Louisiana streets, the Board deems that the adoption of the plan, with certain modifications proposed by Mr. Spencer to elevate the tracks, will be the best solution of the problem. It is furthermore pertinent to say that this plan was unanimously approved, with certain modifications hereinafter alluded to, by all the citizens present at the meeting, including the joint committee representing the Lumber Exchange, the Merchants' Exchange, the Retail Grocers' Association, Produce Exchange, Business Men's Association, and the committee appointed by the common council.

Where a work of such magnitude is to be undertaken as that involved in these grade crossings, the Board agrees with its inspector in deeming that a beginning had better be made in these thickly-settled portions of the city where the needs are most pressing. There is no doubt, however, but that relief should be also afforded upon those streets and avenues leading to the suburban districts. We quote from the report of Mr. Spencer: "Of the avenues leading to and from the suburban districts of the city, your inspector formed the opinion, after a personal examination and from information obtained from the city engineer, Mr. Albert Krause, \* \* \* that the Hamburg turnpike, Seneca, Clinton, Broadway, Genessee, Main, and to some extent Elk streets, were at the present time most extensively used." The Abbott road can also be said to be of great importance.

Considering the streets for the sake of convenience, in the order mentioned in Mr. Spencer's report, which is also that adopted by the committee of engineers appointed by the railroads, the Board recommends:

First. *Hamburg turnpike—southern part of Louisiana street.*—That Louisiana street be carried over the tracks of the New York, Lake Erie and Western railroad near the Ohio basin, in the manner described in Mr. Spencer's report.

It is also recommended that the Buffalo Creek railroad and Lehigh Valley railroad provide gates and flagmen at the crossings of their respective roads by the Hamburg turnpike.

Second. *Seneca street.*—That Seneca street be depressed at the crossing of the West Shore, Buffalo, New York and Philadelphia; Central-Hudson and compromising tracks, ten feet so as to pass under these railroads; the tracks of the railroads to be elevated respectively three and one-half feet; the estimated cost, according to Mr. Spencer's figures attached hereto (marked Schedule A), being \$84,798.

That Seneca street be depressed at the crossing of the tracks of the New York, Lake Erie and Western railroad, eight feet, nine inches; and the tracks of the railroad be elevated four feet, nine inches; the estimated cost, according to Mr. Spencer's figures attached hereto (marked Schedule B), being \$50,967.

That Seneca street be depressed at the crossing of the Buffalo creek ; Buffalo, New York and Philadelphia ; New York, Chicago and St. Louis, and Buffalo and South-western division of the New York, Lake Erie and Western, all adjoining tracks and seven in number, seven and one-half feet, and that the tracks of the above roads be elevated five and one-half feet, the estimated cost being \$88,769, according to Mr. Spencer's figures (marked Schedule C).

A careful instrumental survey having been made of these crossings, by Mr. Albert Krause and by Mr. Spencer, since his report of July 26, 1887, and it having been found that the drainage can be taken care of and other objections met, the Board deems the above recommendations practical and expedient as being in the line of the eventual entire elevation of the tracks of the railroads. Plans and profiles of the proposed crossings are on file at the office of the Railroad Commission, Albany, subject to inspection by those desiring to examine them, and copies of the same will also be filed at the office of the city clerk in Buffalo.

Third. *Elk street and Abbott road.*—After a careful inspection of these two streets, while the Board is impressed with the great desirability of relieving them of the railroad obstructions at the various crossings, it is equally or more impressed with the difficulties of so doing. It cannot consistently recommend overhead highway bridges, for it believes that the tracks will eventually be elevated sufficiently to permit under crossings. Nor can it recommend a depression of the streets, for the drainage will not admit of it. It is therefore with reluctance unable to make any recommendations at present, but suggests that if the recommendations with regard to Seneca street be carried out, highway travelers can cross from the Abbott road by Whittemore street to Seneca street and thence into town by a comparatively unobstructed route. Whittemore street under these circumstances should be put in better order.

Fourth. *Clinton street.*—The same remarks that were applicable to Elk street and Abbott road are in a measure applicable to Clinton street. While the obstructions thereon are very great, it is to be borne in mind that if the recommendations with regard to Seneca street are carried out, highway travelers entering the city by way of Clinton street can cross by the Williamsville road from Clinton to Seneca and thus have an unobstructed route to the heart of the city. Seneca and Clinton streets run substantially parallel from the intersections above mentioned and at a distance apart of about a half mile. Eventually the tracks of the railroads should unquestionably be elevated and the streets, if necessary, depressed, but for the reasons above given the Board at present, in view of the very considerable expense which it will be necessary to incur to meet the recommendations herein made, deems it better to make no recommendation with regard to Clinton street except the maintenance of flags and gatemen at the crossings.

Fifth. *Broadway, Genesee and Main streets.*—These streets being comparatively free from obstruction, the Board makes no recommendation with regard to them at present.

Sixth. *Washington, Michigan, Chicago and Louisiana streets.*—The Board recommends that the relief suggested by Mr. Spencer in



his report of July 26, 1887, for these streets, be adopted, viz.: "To elevate the passenger tracks and freight tracks leading to the lower depot of New York Central and Hudson River railroad; the passenger tracks and car load freight tracks of the New York, Lake Erie and Western railroad, and the passenger tracks of the Lake Shore and Michigan Southern railroad, from Washington to Alabama streets between Exchange street and the Hamburg canal; also to fence and gate Washington street where crossed by New York Central and Hudson River railroad, and both sides of tracks of same road through the terrace."

The Board makes no recommendation as to the proportion of expense to be borne by the railroads among themselves and the city of Buffalo in any of the above improvements, for the reason that the adoption of the proposed plans is voluntary on the part of the railroads and municipal authorities. Should the plans be adopted, however, with any reasonable hope that an agreement would be reached by the city and railroads, the Board would be willing to further extend its good offices to determine the relative proportion of expense should such arbitration be desired.

For the present, however, it feels it has gone as far as expedient in proposing, what in its judgment, is the best practicable plan for remedying the evils complained of.

WM. E. ROGERS,  
L. V. BAKER, JR.,

*Commissioners.*

Attest:

WILLIAM C. HUDSON,  
*Secretary.*

COMMISSIONER KEARNAN. — I concur with Commissioners Rogers and Baker in their conclusions and recommendations. The elevation of the railroad tracks at Buffalo is the best remedy proposed for existing difficulties. As recommended by the Board, it will inaugurate a system which, as extended, will free the streets altogether from railroad tracks, without disturbing the streets or materially injuring adjacent property. The plan of bridging streets, as proposed by the railroads, is such that it ought never to be permitted at all, even though done at railroad expense entirely. The grades of such bridges would check commerce as much as railroad trains do now, and their lengthy approaches would cause such vast injury to private property as to make discussion of the merits of this proposition idle. The plan of relief under which we begin will probably govern in the future, and this bridge plan, if adopted, will destroy the level grade of Buffalo's streets, and make her a city of bridges. Such bridges over the canals of the State are being rapidly changed in cities down to the street grade, because it is found that heavy teaming and traffic cannot be carried on over them. Where any other relief is practicable experience, is, therefore, against such bridges, and they ought not to be permitted.

During the existence of this Board no subject has forced from it greater attention and more thought than that involved in this case. The railroad laws of the State permit railroads to construct their roads

upon, along and across streets, highways, plank-roads and turnpikes at grade upon consent of the local authorities having supervision thereof, the only restriction being that in case of constructing upon and along highways, an order of the Supreme Court must be first obtained. This liberal system by cheapening the cost of construction has aided in giving us railroads everywhere and throughout the State our streets and highways are occupied and crossed by them to an extent that is becoming alarming, and calls for radical and immediate relief. Until recently neither railroads, the local authorities or the people had any conception of how destructive to streets and highways, and their use by pedestrians and vehicles, the construction of railroads at grade would become.

The Board has constantly been called upon to aid in relieving communities from the inconvenience and peril caused by railroads at highway grade crossings. In some cases we found streets and highways constantly blocked by trains, or always dangerous by reason of the view being obstructed, or because of the frequency and rapidity with which trains ran; and yet in these cases the railroads could not fairly be said to be doing any wrong. They were simply occupying the crossing for the reasonable and necessary purposes of their business, pursuant to the law and to the authority given to them by the people. In each case they said to the people: "You are estopped from complaining by the permission that you gave us to build our road upon this crossing and to use it as we do."

Often times the Board has found railroads to be gradually exceeding the fair and lawful limits of the permission given to run along or across a street, and to be steadily encroaching upon the public rights reserved therein. Out of a consent to lay a track in a street has oftentimes sprung a network of tracks or switches, substantially covering the street. The street has sometimes become part of their yard, and is used for car storage and switching ground. Again the points of yard switches have been brought up to highway and street crossings, and thus to the legitimate crossing of regular trains is added the unjust burden of having switching done across the street. Highways and streets are constantly and unnecessarily blocked by freight trains, whose crews are negligent and unmindful of their orders to keep crossings clear. Throughout the State the danger and the business interruption is increasing, because railroads are running more trains and on faster time while communities are growing, and more than ever need the free use of these highways. At Buffalo vast railroad concentration, growth and expansion, together with a marked increase or commercial activity, and of population, have combined to present a situation full of danger to life, and very injurious to business interests. The permission given to railroads to run upon and across streets has resulted in an occupation thereof by railroads, eminently dangerous to life and property, and often quite exclusive. The delay and damage caused to business cannot be estimated. Buffalo has reached by rapid strides precisely the situation to be expected under our present laws. The problem before her of relieving her streets from railroads without interfering with their just rights, or rudely disturbing her own shipping interests, is one that will, under the present system, ultimately face every considerable town and city of the State. It is to

be hoped that this case will arouse a public sentiment upon the question that will compel just remedial legislation.

Legislation is the only remedy, because there is probably no way under present laws of coping with the difficulty. The whole theory of our statutes seems to be against the idea that a railroad can either voluntarily or under legal compulsion change constructed grade highway crossings into either under or over-grade crossings.

Section 23 of the General Railroad Act provides how a road may change a route, or a part thereof, or its termini, but it obviously has no reference to elevating or depressing the tracks at highways.

Section 24 provides that roads may go over or under highways, etc., and may condemn additional land therefor; nothing is said as to streets. Even were streets included, it is very doubtful whether the section has any application to roads already constructed, so as to authorize them to change their crossings. It probably applies to roads in course of construction, and with the construction once completed this authority ends.

Section 21 of the General Act, as amended by chapter 649 of the Laws of 1881, has in it some expressions that might authorize a railroad to condemn the land necessary for changing its highway and street crossings, but it is by no means clear that the statute would be so construed. Chapter 196 of the Laws of 1876, and chapter 582 of the Laws of 1880, are open to similar objections.

What railroads might do about the matter if they chose is, after all beside the real question here, which is, what can they be compelled to do? It is exceedingly doubtful whether highway commissioners, under chapter 255 of the Laws of 1855, or municipal authorities under their general power over streets, have any right to compel a railroad constructed at grade by express permission to elevate their tracks over, or tunnel them under, streets; to build approaches, etc. To do this, express legislative authority would probably be required. Of the power of the Legislature to do it, I have no doubt. The attention heretofore given to this question by this Board has led it to recommend to the Legislature for three years past various amendments and changes in the railroad laws, to-wit:

*First.* Section 3 of chapter 439 of the Laws of 1884, by which the Supreme or County Court is authorized to order "that a flagman be stationed at such point, or that gates shall be erected across such street, highway, turnpike or plankroad, and that a person be stationed to open and close such gates when an engine or train passes, or make such other order respecting the same as it deems proper."

This statute affords ample present relief at many places, but does not meet the situation at Buffalo. The power given to the courts "to make such other order respecting the same as it deems proper," probably only refers to providing protection at the crossing as it is, not to changing its grade materially.

*Second.* The Board has urged that section 23 of the General Railroad Act, above referred to, be amended so that instead of *permitting* railroads hereafter to construct their roads over or under highways, etc., *they shall be compelled to do so in all cases, unless permitted to cross at grade by the Supreme Court under proper regulations for the protection of the public.* Had this been the law when the

West Shore was built, it would have preserved hundreds of streets and highways between New York and Buffalo. There is no hardship in such a law to railroads; on the contrary it would in the end save them money now expended in gates, flagmen, litigation, etc., besides enabling them to conduct their business with greater dispatch and safety. By permitting the Supreme Court to allow grade crossings in exceptional cases, sufficient elasticity is given to the act to prevent hardship, or the unnecessary or unjust application of the law. The experience of Buffalo under the present law is certainly an argument in favor of this amendment, and its passage might prevent further future injury to her streets.

*Third.* In its Third and Fourth Annual Reports the Board has urged what now appears to be in the precise line of the legislation needed to relieve Buffalo. The remedy proposed is to amend section 24 by adding thereto a subdivision providing that, upon the application of either the railroad or the local or municipal authorities, the Supreme Court be authorized to appoint commissioners, as in proceedings for land condemnation, to determine what changes shall be made at existing street or highway railroad crossings or approaches; by whom to be made and maintained; by whom to be paid for, or if the expense is to be divided, how divided; permitting the court to confirm, amend or reverse the decision of the Commissioners, and providing for appeal therefrom to the General Term and Court of Appeals; and finally giving to the court power to compel the doing and completion of the work as finally determined upon, and to compel payment therefor as directed. A further amendment ought to provide for notice of the application to all land-owners interested, and that their damages be appraised and paid in the proceeding. Such an amendment to our railroad laws would seem to meet the situation as well at Buffalo as generally throughout the State; at least it points out the practical method to be pursued. By those who see too much of the law's delay in this course, it ought to be remembered that in many proceedings to elevate or depress railroads at street crossings, vast municipal, corporate and private interests are seriously affected, and hence the proceedings ought to be in accord with established judicial forms, to the end that every one interested may be heard and protected, as well as compelled to do his or its duty. The power to compel necessary changes in construction at street crossings ought to be vested nowhere but in the courts, because it is only there that all interests can be heard and adequately protected according to law and justice.

The fair division of the expense of changing grade-crossings is the most troublesome question involved in these cases. At some crossings railroads ought to bear the whole expense, as, for instance, where they have needlessly and recklessly constructed their roads at grade, when over or under crossings were practicable at little extra expense. At other places it would not be unjust to impose upon towns a large part of the expense, as, for example, upon the Lockport branch of the New York Central, where it is asserted that grade crossings were insisted upon, after abutments for overhead bridges had been built. In cities it is the growth of railroad business that creates the difficulty, and hence when a change becomes necessary to relieve the street, the railroad ought to pay the most of the expense. On the other hand cities

are justly liable for a portion of the expense of carrying out some proper plan of relief, because, first, they have invited, or, at least, without protest have permitted railroads to expend vast sums upon the grade crossings and the rail systems adapted thereto, and in the change this amount becomes a loss; second, the people and their business can well afford to pay something to be relieved from a burden, partially self-imposed; third, when tracks are elevated or depressed, the city and its people become re-invested with the exclusive right to the street, and the railroad surrenders such rights as it had acquired under the consent given to it to lay rails in the street and to use them. However much the railroads and the people may disagree as to the just division of the expense of changing grade crossings, all must admit that under the amendment to the General Act proposed, the question would be judicially and fairly determined after a full hearing of every party interested, and a thorough ascertainment of all the facts.

o There is but little doubt that relief to Buffalo and to other cities similarly situated will ultimately have to come through legislation. What we suggest may not be perfect, but it will serve a useful purpose if it aids in securing such legislation as will meet the necessities of this and of similar cases.

JOHN D. KERNAN,  
*Commissioner.*

Attest:

WILLIAM C. HUDSON.

# APPENDIX.

## SCHEDULE A.

*Approximate estimated cost to pass Seneca street under the tracks of the New York Central and Hudson River, the Buffalo, New York and Philadelphia, and the West Shore railroads, in the city of Buffalo, N. Y., by elevating tracks and depressing sidewalks and roadway of street.*

Quantities.	ITEMS.	Price.	Amounts.
17,000 cubic yards..	Excavation of streets .....	\$0 30	\$5,100 00
10,000 cubic yards..	Embankment of railroads.....	30	3,000 00
8,000 cubic yards..	Ballast.....	60	4,800 00
1,170 cubic yards..	Masonry in bridge abutments, first class.....	10 00	11,700 00
720 cubic yards..	Masonry in retaining walls, second class.....	8 00	5,760 00
2,860 square yards,	Paving, including old material.....	2 00	5,720 00
18,760 square feet...	Flagging, including old material.....	20	3,752 00
1,370 lineal feet....	Curbing, including old material.....	60	822 00
500 lineal feet....	Twelve-inch cement sewer.....	1 75	875 00
120 cubic yards..	Masonry in pedestals.....	14 00	1,680 00
84,000 ft. bd. m.....	Hemlock timber and plank in foundation.....	20 00	1,680 00
7 .....	Plate girder through trusses with I beam approaches over sidewalk to length, each 90 feet, 630 lineal feet.....	40 00	25,200 00
	Raising seven tracks one-half mile each, an average of two feet, including delays, etc.		
	Estimated.....		7,000 00
			\$77,089 00
	Add 10 per cent for contingencies.....		7,709 00
	Total.....		\$84,798 00

THOS. W. SPENCER,

*Inspector.*

Dated ALBANY, Oct. 22, 1887.

## SCHEDULE B.

*Approximate estimated cost to pass Seneca street under the tracks of the Buffalo, New York and Philadelphia, the New York, Lake Erie and Western, the New York, Chicago and St. Louis, and the Buffalo Creek railroads in the city of Buffalo, N. Y., by elevating the tracks and depressing the sidewalks and roadway of street.*

Quantities.	ITEMS.	Price.	Amounts.
7,500 cubic yards..	Excavation of street.....	\$0 30	\$2,250 00
53,700 cubic yards..	Embankment of railroads.....	30	16,110 00
6,700 cubic yards..	Ballast of railroads.....	60	4,020 00
578 cubic yards..	Masonry in bridge abutments, first class.....	10 00	5,780 00
470 cubic yards..	Masonry in retaining walls, second class.....	8 00	3,760 00
140 cubic yards..	Masonry in pedestals.....	14 00	1,960 00
1,800 square yards,	Paving, new.....	4 00	7,200 00
9,800 square feet...	Flagging, new.....	22	2,156 00
890 lineal feet....	Curbing.....	70	623 90
48,000 ft., bd. m.....	Hemlock timber and plank in foundation.....	20 00	960 00
504 lineal feet....	Plate girder through and I beam deck over sidewalks for seven tracks.....	40 00	21,160 00
	Raising seven tracks, each a total of 2,200 feet, =15,400 lineal feet, to be raised three feet, including delay.....	80	12,320 00
	Building a trunk sewer 5 feet 9 inches diameter under sidewalk, total length 400 feet, at per foot.....	6 00	2,400 00
			\$80,699 00
	Add ten per cent for contingencies.....	.....	8,070 00
			\$88,769 00

THOS. W. SPENCER,  
Inspector.

Dated ALBANY, N. Y., Oct. 22, 1887.

## SCHEDULE C.

*Approximate estimated cost to pass Seneca street under the main tracks of the New York, Lake Erie and Western Railroad, in the city of Buffalo, N. Y., by elevating tracks and depressing sidewalks and roadway of street.*

Quantities.	ITEMS.	Price.	Amounts.
10,000 cubic yards....	Excavation of street.....	\$0 30	\$3,000 00
6,800 cubic yards....	Embankment of railroad .....	30	2,040 00
1,600 cubic yards....	Ballast for tracks.....	60	960 00
512 cubic yards....	Masonry in bridge abutments, first class.....	10 00	5,120 00
467 cubic yards....	Masonry in retaining walls.....	8 00	3,736 00
64 cubic yards....	Masonry in pedestals.....	14 00	896 00
1,883 square yards..	Paving, including old material.....	2 00	3,766 00
9,810 square feet....	Flagging, including old material.....	20	1,962 00
890 lineal feet.....	Curbing, including old material .....	60	534 00
48,000 ft., bd. m.....	Hemlock timber in foundation.....	20 00	960 00
	Five girders and I beams oversidewalks—each a total length of 96 feet—estimate, 384 lineal feet, bridges.....	40 00	15,360 00
	Raising four tracks each a total length of 2,000 feet=8,000 feet of tracks to be raised at per foot .....	70	5,600 00
	Building a trunk sewer, 5 feet 9 inches diame- ter under sidewalk, total length 400 feet at per foot.....	6 00	2,400 00
			\$46,334 00
	Add 10 per cent for contingencies.....	.....	4,633 00
			\$50,967 00

THOS. W. SPENCER,

*Inspector.*

Dated ALBANY, N. Y., Oct. 22, 1887.



## REPORT

OF THE INSPECTOR TO THE BOARD OF RAILROAD COMMISSIONERS ON THE  
MATTER OF RAILROAD CROSSINGS AT GRADE IN THE CITY OF BUFFALO.

ALBANY, July 26, 1887.

*To the Honorable the Board of Railroad Commissioners:*

GENTLEMEN.—June 25th the following instructions were received from your Honorable Board:

"Resolved, That Thomas W. Spencer, the inspector of this Board be directed to prepare and furnish to the Board, with all convenient speed, maps and profiles showing the railroad street crossings in the city of Buffalo, together with tracks connecting with manufacturing and business places, and also to submit therewith a report showing how far it is practicable to carry any of such grade crossings over or under the said tracks, or in what other ways relief can be had with due regard to all interests involved, together with an estimate of the expense of such work.

"Further Resolved, That said inspector be directed to confer with the local and railroad authorities interested, and to transmit with his report any suggestions or plans proposed by them for the remedying of the evils complained of."

Immediately after receiving the above, your inspector went to Buffalo, opened a temporary office convenient and accessible to all parties interested, who were each notified and their co-operation solicited.

On June 28th the work of taking the necessary levels and measurements was begun, and in those streets where the necessity for relief appeared to be most pressing, viz.: Main, Washington, Michigan, Chicago and Louisiana streets. These avenues lead from the residential and retail business portions of Buffalo to the most extensive manufacturing, shipping, market, lumber and coal districts of the city. These streets will be again referred to.

Of the avenues leading to and from the suburban districts of the city, your inspector formed the opinion by a personal examination and from information obtained from the city engineer, Mr. Albert Krause, and two or more prominent citizens, whose business would lead them to be close observers, that the Hamburg Turnpike, and Seneca, Clinton, Broadway, Genesee, Main and to some extent Elk streets, were at the present time most extensively used.

"Exhibit B" accompanying this report will show the relation of these avenues to the outlying districts surrounding the city. A careful examination was made of the Hamburg Turnpike, and Seneca and Clinton streets, with the view of suggesting to your Honorable Board some plan to relieve them, in part at least, of the many grade crossings now obstructing them. Broadway, Genesee and Main streets are probably at this time less seriously exposed; at least they are said to be less extensively traveled. They should be relieved, however, from obstruction, which relief, so far as damages to adjoining property is concerned, could be accomplished now with less expense than hereafter, by either bridging under or over wherever it is practicable. So much time was consumed in a plan for the relief of the central business portion of the city that a close instrumental examination of these streets was omitted.

The Hamburg turnpike is the only avenue out of the city along the shore of Lake Erie. It cannot be better approached than by Louisiana street to the Buffalo river bridge where the street and turnpike connect. If the passenger tracks of the Erie, Central and Lake Shore railroads were either under or over, one great obstruction would be removed. The double tracks of the Lehigh Valley road are but little used, and now have gates and flagmen. The tracks of the Delaware, Lackawanna and Western railroad are also crossed at grade. Gates and a flagman are provided which appear sufficient for the present. Six tracks of the Erie railroad leading to their elevators and freight depots cross Louisiana street at grade. By concentrating these tracks a bridge of one hundred feet span would suffice to carry the street over. With a grade of six feet in one hundred, each approach would occupy about three hundred and twenty-five feet, or seven hundred and fifty feet in all, of the street. The approaches should be confined inside of retaining walls, the roadway paved and sidewalks flagged and properly guarded with iron railing. The bridge should be constructed the full width of the street. There are no cross streets at this point which would be obstructed. No plans are submitted, but the cost is estimated, exclusive of land damages, at about \$32,000. Possibly the tracks could be depressed one foot which would lessen this cost about ten per cent. Head room for cars is placed at sixteen feet. At the city ship canal the tracks of the Buffalo Creek are crossed at grade, and also one track, little used, of the Buffalo, New York and Philadelphia railroad. West of the canal the coal tracks of the Lehigh Valley road are crossed at grade, gates as well as flagmen should be provided at the Buffalo Creek and Lehigh Valley roads. These suggestions carried out would make the Hamburg turnpike, for the present, quite safe for public use.

Seneca street is one of the principal avenues leading out of the city. At the first railroad crossing in this street are the tracks of the West Shore, Buffalo, New York and Philadelphia, the Central-Hudson and the compromise tracks connecting with the Lake Shore road. In all, they are seven in number, requiring a bridge two hundred and fifty feet in length, divided as follows: one span of one hundred and five feet, one of thirty, one of sixty-five and one of sixty feet. Sixteen feet clear head-room is the least space admissible. Each approach would be about three hundred and fifty feet in length, with a grade of about five feet in one hundred. The bridge should be constructed as suggested, over the Erie tracks on Louisiana street, and would probably cost forty thousand dollars, exclusive of land damages. These tracks, with the exception of the West Shore, are elevated about two and one half feet above the pavement of the street. By depressing the street five and one-half feet and raising the tracks seven feet above present elevation, it would give ample room to pass Seneca street under these tracks. No instrumental examination was made nor estimates of the expense of performing the work. Jefferson street, south of Seneca, would have to be discontinued, and a fifty feet per mile grade introduced along the compromise track from its junction with the Central-Hudson to its Erie cross-over. The roadbeds of the Central-Hudson, West Shore and the Buffalo, New York and Philadelphia would have to be raised, all of which would make

the cost of an under-street crossing about seventy thousand dollars. There would be no land damages.

The next tracks crossed are those of the New York, Lake Erie and Western railroad, four in number. This crossing appears, for the present, sufficiently protected by gates and flagmen. Then follows the grade crossing of the Buffalo Creek, the Buffalo, New York and Philadelphia and the New York, Chicago and St. Louis railroads, all adjoining and seven in number. At this point it is suggested that the tracks be depressed two feet and a bridge constructed of two spans, one of sixty and one of one hundred feet, carrying the street full width over the tracks. The approaches should have a grade not exceeding five feet in one hundred, which would make each approach about three hundred and twenty-five feet in length. They should be inclosed with retaining walls, roadway paved and sidewalks flagged and guard-railed. The cost of such a structure, exclusive of land damages, would be about thirty-five thousand dollars. The crossing of the Lehigh Valley road is elevated above the street. Following the Lehigh Valley is the double-track grade crossing of the Delaware, Lackawanna and Western railroad, which is raised about two feet above the average surface of street. The gates and flagmen provided appear to be sufficient for the present.

Were the foregoing suggestions carried out, Seneca street, for the present, would be reasonably clear of railroad obstructions.

Elk street is crossed at grade by the elevator tracks of the Central-Hudson; The main tracks and freight sidings of the Lake Shore; the tracks of the Buffalo Creek; Buffalo and South-western; Buffalo, New York and Philadelphia; and the New York, Chicago and St. Louis railroads. At this time there does not appear to be relief absolutely necessary beyond the proper gating and flagging of the railroad crossings. The suburban travel to the markets and the retail business and residential portions of Buffalo would not, of necessity, nor to a great extent for convenience, use Elk street. By continuing along Seneca street to Main street or to Michigan street, thence over or under the Central-Hudson tracks to the markets, the grade crossings would be avoided. Within the tinted district of "Exhibit B," the street could not reasonably be relieved, and the travel of Elk street would be mostly confined to local residents.

At the first railroad crossing of Clinton street are the five tracks of the Central-Hudson and three adjoining tracks of the West Shore road. Probably a bridge over these tracks will for the present be the most practicable method of overcoming the obstruction. They could be concentrated so as to require but one span of bridging about one hundred and thirty-six feet in length, and the tracks could be depressed about two feet. The bridge should be the full width of street with approaches properly paved and flagged, the whole of which would probably cost about forty thousand dollars, exclusive of land damages. Flagmen are employed at this crossing night and day. The next crossing is that of the Buffalo Creek road, with one track and adjoining the overhead bridge of the West Shore road. No change can reasonably be made at this crossing, but gates and flagmen are necessary. Following are the thirteen freight yards and main tracks of the Erie road, all extensively used. It is practicable to depress the street

at this point and carry the tracks over by elevating them seven feet. The estimated cost of such treatment is conjectured at about sixty-five thousand dollars including change of railroad grade. Quite possibly the freight sidings could be moved easterly and only the two main tracks cross the street. If so treated, the freight tracks should be moved sufficiently to the east to avoid crossing Clinton street while making up trains. At the next crossing are the double tracks of the Delaware, Lackawanna and Western railroad; these are now sufficiently protected by gates and flagman. The last crossing is that of the Lehigh valley which is above the street.

With the exception of the bridge over the Erie railroad elevator tracks on Louisiana street, the foregoing suggestions are not the result of computation from actual surveys. They are entirely approximate as to cost and should be so treated, but the necessity for relief and the method suggested, may properly be a basis for recommendation by your Honorable Board.

South of the Erie and Hamburg canals, between Erie and Alabama streets, as tinted on "Exhibit B," are located a large amount of the manufacturing, lumbering and shipping interests of Buffalo. This district has a number of miles of railroad tracks which cross and run along the streets at grade, which cannot be avoided. They cannot be elevated as that would destroy their usefulness. The streets cannot be depressed to any extent as they are but little above Lake Erie, and to carry them over the tracks would occupy too much of these business streets and thus greatly impair their usefulness. The only mitigation of the evil is the use of gates and flagman where practicable; the constant care and watchfulness on the part of trainmen, teamsters and pedestrians; and the reduction of train movement to a *minimum*. It is further suggested that all switching, delivery and removal of cars possible be withheld for other than business hours.

As before stated, the streets wherein the necessity for relief appears to be most pressing, are those crossed at grade by the passenger tracks of the New York Central and Hudson River; New York, Lake Erie and Western; the Lake Shore and Michigan Southern; also a few freight tracks of the same roads, between Erie street and the grade cross-over of the two first named roads near Alabama street. The passenger tracks are also used by the Michigan Central; the Buffalo, Rochester and Pittsburgh; the West Shore; and the New York, Chicago and St. Louis railroads. The streets thus crossed are as follows; Erie, the Terrace, Main, Washington, Michigan, Chicago and Louisiana streets. A tally of the traffic of Washington, Michigan, and Louisiana streets for one day, between the hours of six A. M. and six P. M., gave the following tabulated results:

STREET.	Date. 6 A. M. to 6 P. M.	Teams.	Persons on foot.	TRAINS.		SWITCHING.		Light engines.
				Passenger.	Freight.	Passenger.	Freight.	
Washington ..	April 6, '87	1,603	5,724	49	None.	52	None.	31
Michigan .....	" 7, '87	2,682	12,996	54	2	131	88	137
Louisiana.....	" 7, '87	2,158	6,406	96	13	75	66	190

Beginning with Erie street, levels were taken to prepare a profile of track surface of the Central-Hudson ; the Erie ; and the Lake Shore roads as far as the grade cross-over of the first named roads near Alabama street. A map was also prepared embracing the same locality and extending north to Folsom and south to Perry streets. These maps and profiles with sketches of bridges and sections of suggested retaining and abutment walls, accompany this report, marked as "Exhibit A."

Commencing at Erie street and extending to the Erie cross-over, there is a considerable difference in elevation of the present surface of the Central-Hudson road, between that of the Terrace and that at the west end of the train house and extending to Alabama street. The passenger tracks cannot be elevated along the Terrace without raising them to an impracticable height along the low grade east of Washington street. To depress the tracks through the Terrace sufficiently to admit of a tunnel, is impossible by reason of the water of Lake Erie, without a resort to pumping, and to raise the Terrace sufficient to form a tunnel, would be to destroy it as a street and greatly damage valuable property. For these reasons your inspector is clearly of the opinion that the present surface tracks should remain, and for protection suggests : That an iron picket fence, six feet high, parallel and as closely adjoining these tracks as admissible, be erected from the west side of Erie street to the east side of Main street, with lift gates of same height properly counterpoised for ease and rapidity of movement, these gates to be placed at all points necessary and to include sidewalks. Probably thirty-seven feet for roadways and ten feet openings for sidewalks would be sufficient. For the same reasons a like protection for Washington street is suggested, and the cost of the whole is approximately estimated at seven thousand nine hundred dollars.

For the relief of Michigan and Louisiana streets, the New York Central and Hudson River Railroad Company have submitted to the Common Council of Buffalo, sketches of suggested bridges over their tracks at Michigan street and over their own and the tracks of the Erie and the Lake Shore roads, at Louisiana street. No estimate of cost is given and there appears to be some misconception as to the disposal of the street railroads at the landings of these proposed structures. To continue the sidewalks down the incline of suggested bridge landings is impossible without discontinuing the streets where the landings and streets intersect or without materially narrowing the roadway of bridge approaches. Steps are therefore proposed, overcoming an elevation of about twenty feet, at the south side of Exchange street and at the crossing of the Lehigh Valley railroad south of the Hamburg Canal. A copy of these sketches marked "Exhibit C" is submitted with this report.

After a careful consideration of the whole matter embracing these extensively used crossings including Chicago street, and impartially weighing the interest of all concerned, it became clear to your inspector that the best solution of the problem was, if possible, to elevate all the tracks crossing Michigan street, all the tracks at Chicago street excepting the two freight tracks of the Central-Hudson crossing the Hamburg Canal and all the tracks crossing Louisiana street. Effort

was at once made to formulate a plan that should at the least cost and disturbance meet these requirements. The first step taken was to ascertain how far the streets themselves might be depressed which was found to be not more than two and one-half feet, and the top of pavement when depressed under the railroad tracks was fixed at that elevation, as shown on profiles attached to "Exhibit A." This elevation is high-water mark of Lake Erie as twice developed within the past eight years and for about three hours duration each time. With rare exceptions the water level is about five or six feet lower.

The next consideration was how to cross the Hamburg canal. It was found that the bridges at Chicago and Louisiana streets could remain as at present without increasing the gradients of approaches, but the lengthening of them about one-half was necessary. Such an arrangement does not disturb the approach to the Lake Shore freight house on Louisiana, nor the elevator tracks of the Central-Hudson at Chicago street. The grade crossing of these elevator tracks at this point cannot well be avoided. An ordinary index lift gate with a flag-man is suggested as sufficient protection for the present. At Michigan street the local freight house tracks of the Central-Hudson road are near the canal and it is desirable that they be carried over the street. To do this a lift bridge as shown by sketch attached to "Exhibit A," of thirty feet span and full width of street is suggested. To reach the freight house a seventy-foot descending grade from the west margin of Michigan street to the freight house is necessary. The area now occupied by teams is estimated to be filled and paved along these tracks that they may be utilized as now for car-load freight. It will be necessary to raise the train house, baggage-room and express building of the Central-Hudson ten feet, and to considerably modify the baggage-room and express building. The waiting-room and dining-hall will not be disturbed; an easy flight of steps between these rooms and the train house overcoming the difference of elevation. Near Chicago street is located an engine-house, also a repair shop, now unused. The walls of the engine-house are somewhat shattered and a new building is projected. To reach the proposed elevated baggage and express rooms of same road an inclined way along Exchange street is suggested; the cost of retaining wall and paving is estimated. The Erie passenger rooms will not be disturbed, a flight of steps to the proposed elevated passenger tracks making it unnecessary. The baggage and express rooms will have to be raised and an elevator used. At the corner of Exchange and Chicago streets the Erie railroad has a brick shop and supply room which it is proposed to elevate, leaving the ground floor for a store room. Where the Erie has sidings between Chicago and Louisiana streets for car-load freight, it is proposed to construct an inclined way at each end, retained by a wall along Exchange street. The Erie freight house between Louisiana street and the cross-over will remain as now, but narrowed about seven feet, and the track adjoining will remain at low grade. No change is necessary with the Lake Shore freight house and the car-load tracks will not be disturbed. A retaining wall is proposed along the Buffalo car wheel shops, sufficiently removed to allow the track adjoining to remain. Between the grade crossing of the Erie and the crossing of Louisiana street the proposed fifty-three feet per mile ascending grade

will be about eight hundred and fifty feet long. This may be modified to some extent by raising the cross-over, but it is the most objectionable feature of the proposed elevation of tracks. There will be, however, more than one-half mile of level tracks, nine to fifteen in number, free from all obstruction, and the number of these tracks may be readily increased in the future.

The Hamburg canal is the receptacle of the sewage of a large portion of the city, and has become a serious detriment to the health of Buffalo. Its abandonment is a necessity, almost universally acknowledged. Should this be done, the railroads adjoining would be able to largely increase the area of proposed elevated road-bed, giving room that soon will be necessary.

Careful estimates have been made of the cost of elevating the passenger tracks as suggested. Mr. Porter, the architect before referred to, has made a statement from measurements of the expense of elevating the buildings affected, which is submitted, and Mr. Charles F. Stowell, bridge expert for the Board, submits an estimate of the cost of the proposed bridging. The gross amount estimated, including ten per cent addition for contingencies, is \$410,700, and includes the iron fencing west of the Central station. This estimate is believed to be more than sufficient to perform the work suggested. There would be undoubtedly great annoyance in the operating of trains, while the work was in progress, but judicious management would overcome this objection to a great extent. Mr. C. W. Buckholts submits as chief engineer, and for the New York, Lake Erie & Western railroad recommendations that accompany this report.

Valuable aid has been given your inspector by that gentleman and Mr. McCreary, chief engineer of the Buffalo, New York and Philadelphia railroad. Mr. Albert Krause, city engineer of Buffalo, has assisted in every way possible in preparing the foregoing suggested improvements for the relief of the streets of that city. To all these gentlemen and to others, the thanks of the Board are due.

Respectfully submitted,

THOS. W. SPENCER,

*Inspector.*

*APPROXIMATE ESTIMATE of cost to elevate the passenger tracks and freight tracks leading to the lower freight depot of N. Y. C. & H. R. R., the passenger tracks and car-load freight tracks of the N. Y., L. E. & W. R. R., and the passenger tracks of the L. S. & M. S. R. R., from Washington to Alabama street between Exchange street and the Hamburg canal; also the estimated cost to fence and gate Washington street, where crossed by N. Y. C. & H. R. R. R., and both sides of tracks of same road through the Terrace, all in the city of Buffalo, N. Y.*

Quantities	ITEMS.	Price.	Amounts.
5,040	Cubic yards earth and pavement excavation of streets...	\$0 50	\$2,520
6,160	Cubic yards excavating foundation of retaining wall and abutment.....	30	1,848
304,000	Cubic yards embankment.....	30	91,200
1,800	Cubic yards masonry in abutments, first class.....	8 50	15,300
190	Cubic yards coping abutments.....	10 00	1,900
3,740	Cubic yards retaining wall, second class.....	7 75	28,985
3,740	Cubic yards retaining wall, third class in cement.....	6 50	24,310
458	Cubic yards retaining wall coping.....	9 00	4,122
240	Cubic yards masonry in pedestals.....	11 00	2,640
392,000	Feet, board measure, hemlock timber and plank in foundations.....	20 00	7,840
5,200	Square yards sand stone paving including old material..	2 00	10,400
2,400	Lineal feet curbing.....	70	1,680
28,600	Square feet flagging.....	20	5,720
	For trestle entire length one track, moving and lifting all other tracks within elevated area, including extra work to maintain train service, estimated.....		30,000
156	Cubic yards masonry in abutment for lift-bridge, Hamburg canal, at Michigan street.....	10 00	1,560
4,500	Feet, board measure, hemlock timber and plank in foundation.....	20 00	90
	For lowering north abutment, Hamburg canal at Michigan street.....		300
	Lift-bridge complete, 30 feet space at Michigan street.....		5,000
	Feet, board measure, oak flooring Michigan street bridge	30 00	180
6,000	Girders, etc., in bridges over Michigan, Chicago and Louisiana streets (37 tracks total).....		61,587
40	For raising train-house, N. Y. C. & H. R. R. R.....		30,140
	For new engine-house, N. Y. C. & H. R. R. R.....		17,600
	For enlarging and changing baggage-room N. Y. C. & H. R. R. R.....		5,470
	For enlarging and changing express-room N. Y. C. & H. R. R. R.....		5,570
	For remodeling and raising depot master's office.....		1,000
	For enlarging opening through building east side Washington street.....		1,200
	For raising baggage and express rooms, N. Y., L. E. & W. R. R.....		2,500
	For raising shop south-west corner Exchange and Chicago streets, N. Y., L. E. & W. R. R.....		2,500
	For remodeling rear of depot, N. Y., L. E. & W. R. R.....		500
	For narrowing freight-house, N. Y., L. E. & W. R. R.....		2,500
	Total.....		\$366,162
	Add 10 per cent for contingencies.....		36,616
	Total.....		\$402,778
	Iron fencing and lift-gates:		
	Lineal feet iron picket fence 6 feet high.....		
	Lineal feet lift-gates complete (wood).....		7,900
	Total cost of elevating tracks between Washington and Alabama streets, and the fencing of the Terrace and Washington street.....		\$410,678

THOS. W. SPENCER,

Inspector.



## REPORT OF THE RAILROAD ENGINEERS.

BUFFALO, September 20, 1887.

Pursuant to appointment made in Albany on the 13th inst., the undersigned met in Buffalo this day, and after full conference and discussion of the various propositions contained in the report of Mr. Thomas W. Spencer, inspector of the Board of Railroad Commissioners of the State of New York, in the matter of railroad crossings at grade in the city of Buffalo, dated July 26, 1887, have unanimously arrived at the following conclusions :

*First.* In regard to the proposed bridge to carry Louisiana street over the tracks of the New York, Lake Erie and Western railroad near the Ohio basin, while it is not conceded that such a bridge is necessary or that it should be built as suggested in the report, yet the Erie Railroad Company will agree if such bridge be desired to bear part of its cost. The estimated cost (\$32,000) is believed to be much too low, but the Erie company will build the bridge over its tracks, the city paying for building the approaches.

*Second.* The proposed bridge on Seneca street near Jefferson street is approved and considered necessary. It is not deemed desirable, however, to raise the railroad tracks, as suggested in the report. The cost of the bridge proper and its abutments and piers to be paid by the railroad companies in proportion to their respective interests in the railroad lands it crosses, and the city to provide the "approaches" at its own expense.

*Third.* The bridge on Seneca street near the Buffalo Creek railroad is also approved and its cost to be distributed between the railroad companies and the city as suggested in the preceding clause hereof.

*Fourth.* The bridge on Clinton street between Bond and Lord streets, if found practicable on further examination, is desirable in the interests of public safety and its cost should be apportioned as suggested in the second clause hereof.

*Fifth.* The proposition of avoiding the grade crossing at Clinton street by taking it under the Erie railroad, and elevating its tracks seven feet for that purpose, is deemed impracticable ; not only on account of the great expense involved, but also because such an elevation would create a summit, with steep approaching grades in the middle of the yard, and make it entirely useless. The suggestion that the yard could be shortened by bringing the switches into the main tracks west of Clinton street, is also impracticable, as it would deprive the Erie of nearly one-half its present yard room. A bridge over these tracks seems to be the only method here, as well as at the other points, to avoid the crossing at grade.

*Sixth.* In regard to the proposition to elevate the tracks of the New York Central and Erie railroad companies between Alabama and Main streets, we are unanimously of the opinion that the inadmissible grades, the great expense and the disorganization to the traffic of the railroads involved in it, is so great as to be utterly incommensurate with the benefits the city would derive from it ; and that it would be a needless expense to incur at this time in view of the fact that it is possible in the near future to arrive at a much more comprehensive

and harmonious plan by which both the city and the railroads can be better accommodated; pending the study and final determination of which, and to afford the relief which is immediately required for public safety and convenience we would recommend that:

1. The street railroad tracks on Exchange street between Michigan and Louisiana streets, and on Louisiana street from Exchange street to Seneca street, be removed, and in lieu thereof be run on Seneca street from Michigan to Louisiana street. This will permit the proper bridging of Louisiana street.

2. That Louisiana street be bridged substantially as heretofore suggested by a plan submitted by the New York Central Railroad Company, the expense thereof to be apportioned between the city and the railroad companies interested in it, as suggested in the second clause of this report; the bridge to be constructed with such reasonable facility as will give free ingress and egress to and from the Lake Shore and the Erie freight depots.

3. That Chicago street be closed by the city between the Hamburg canal and Carroll street, thus securing uninterrupted switching length between Michigan and Alabama streets, a distance of 3,000 feet. The Michigan street crossing will thus be relieved from drilling over it and the railroad traffic over that street will be reduced to a minimum, making it practicable and feasible to protect that crossing by gates and flagmen, thus making it reasonably safe for the traveling public.

In reference to the proposition advanced, fencing each side of the railroad tracks across the Terrace between Main and Erie streets, we are of the opinion that guard gates and flagmen at Main, Seneca and Erie streets will afford all needed public protection without incurring the objectionable feature of dividing, by an impassable barrier, the two sides of the Terrace between the cross streets.

WALTER KATTE, *Chief Eng. N. Y. C. & H. R. R. Co.*

CHS. W. BUCKHOLZ, *Eng. of Bridges, etc., N. Y., L. E. & W. R. R.*

I hereby join in the above recommendations with this modification: That Louisiana street be bridged by a plan which may be hereafter agreed upon.

G. R. HARDY, *Chief Engineer L. S. & M. S. Ry.*

R. D. McCREARY, *Engineer, M. of Way, B., N. Y. & P. R. R.*

## V.

### CITIZENS OF SILVER SPRINGS AGAINST THE NEW YORK, LAKE ERIE AND WESTERN AND THE SILVER LAKE RAILROAD COMPANIES.

July 18, 1887.

The citizens petitioned the Board for a flagman at the highway crossing in the village of Silver Springs, where it was crossed by the two roads. The allegation was that the view of the roads was obstructed by buildings and cuts, and that the crossing was largely traveled.

The Silver Lake Railway Company replied by saying that the complaint could hardly apply to that company, as its trains stopped before crossing the Erie tracks, and when it crossed did so at a very slow rate of speed.

The New York, Lake Erie and Western replied, that a conference with the petitioners had been had and an agreement reached, under which the company was to erect an electric bell at the crossing.

The Board is informed that the bell is operating satisfactorily.

# LENGTH OF STEAM RAILROADS.

IN OPERATION SEPTEMBER 30, 1887.

[SMALL CAPITALS indicate lessees ; indentions indicate leased or operated lines.]

Name of Company.	Miles in State of New York.
Addison and Pennsylvania .....	10.50
Adirondack.....	58.00
Bath and Hammondsport.....	9.40
Boston and Albany .....	56.63
BRADFORD, ELDRED AND CUBA.....	23.71
Bradford, Richburgh and Cuba.....	3.62
Wellsville, Bolivar and Eldred.....	20.62
Brooklyn, Bath and West End.....	7.00
Brooklyn, Flatbush and Coney Island.....	7.50
Brooklyn and Rockaway Beach.....	3.50
Buffalo Creek.....	4.26
BUFFALO, NEW YORK AND PHILADELPHIA.....	200.40
Genesee Valley Canal.....	98.91
Genesee Valley Terminal.....	2.46
Olean, Bradford and Warren.....	12.53
BUFFALO, ROCHESTER AND PITTSBURGH.....	166.21
Perry.....	1.03
Carthage and Adirondack.....	29.25
CATSKILL MOUNTAIN.....	15.73
Cairo.....	3.78
CENTRAL VERMONT :	
Addison.....	.75
Ogdensburgh and Lake Champlain.....	118.00
Chateaugay.....	73.00
CLOVE BRANCH.....	4.25
New York, Boston and Montreal (trustees).....	4.01
Cooperstown and Susquehanna Valley....	16.25
Crown Point Iron Company's Railroad.....	12.84
DELAWARE AND HUDSON CANAL COMPANY :	
Albany and Susquehanna.....	142.51
Albany and Vermont.....	12.18
Cherry Valley, Sharon and Albany.....	20.99
Glens Falls.....	15.12
Lackawanna and Susquehanna (owned).....	17.65
New York and Canada.....	149.94
Rensselaer and Saratoga.....	110.15
Saratoga and Schenectady.....	21.56

# LENGTH OF STEAM RAILROADS.

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Name of Company.	Miles in State of New York.
Schenectady and Duanesburgh.....	13.79
Schenectady and Mechanicville (owned).....	9.93
West Troy and Green Island.....	1.08
<b>DELAWARE, LACKAWANNA AND WESTERN:</b>	
Cayuga and Susquehanna Valley.....	34.41
Greene.....	8.10
New York, Lackawanna and Western.....	207.79
Oswego and Syracuse.....	34.98
Syracuse, Binghamton and New York.....	81.00
Utica, Chenango and Susquehanna Valley.....	97.41
Valley.....	11.64
<b>ELMIRA, CORTLAND AND NORTHERN.....</b>	<b>119.84</b>
Canastota Northern.....	20.80
<b>ELMIRA AND LAKE ONTARIO.....</b>	<b>98.10</b>
Elmira and Williamsport.....	6.50
<b>FALL BROOK COAL COMPANY:</b>	
Corning, Cowanesque and Antrim.....	15.64
Penn Yan and New York.....	6.40
Syracuse, Geneva and Corning.....	57.75
<b>FITCHBURG:</b>	
Boston, Hoosac Tunnel and Western.....	54.73
Hoosac Tunnel and Saratoga.....	15.52
Saratoga Lake.....	10.00
Troy and Bennington.....	5.09
Troy and Boston.....	34.74
Fonda, Johnstown and Gloversville.....	26.17
<b>GENEVA, ITHACA AND SAYRE.....</b>	<b>113.35</b>
Hayt's Corners, Ovid and Willard.....	2.99
Greenwich and Johnsonville.....	14.65
<b>HARTFORD AND CONNECTICUT WESTERN.....</b>	<b>41.60</b>
Newburgh, Dutchess and Connecticut.....	1.25
Herkimer, Newport and Poland.....	16.73
<b>JAMESTOWN AND NORTHERN.....</b>	<b>21.80</b>
Mayville Extension.....	3.50
<b>Kaaterskill.....</b>	<b>7.50</b>
<b>LACKAWANNA AND PITTSBURGH.....</b>	<b>79.86</b>
Rochester, New York and Pennsylvania.....	11.75
Lake Champlain and Moriah.....	7.66
Lake Shore and Michigan Southern.....	71.00
Lehigh and Hudson River.....	15.10
<b>LONG ISLAND.....</b>	<b>177.45</b>
Brooklyn and Jamaica.....	9.68
Brooklyn and Montauk.....	67.08
Bay Ridge Branch.....	4.23
Far Rockaway Branch.....	9.41
Greenpoint Branch.....	3.79
Hunters Point and South Side.....	1.52
Long Island City and Flushing.....	14.05
New York, Brooklyn and Manhattan Beach.....	12.39
Newtown and Flushing.....	3.98
New York and Rockaway.....	8.91

Name of Company.	Miles in State of New York.
Stewart .....	16.34
Smithtown and Port Jefferson .....	19.06
Whitestone Branch .....	4.00
Woodside Branch .....	3.99
Marine .....	.33
Middleburgh and Schoharie .....	5.75
Newburgh Dutchess and Connecticut .....	57.59
NEW JERSEY AND NEW YORK .....	18.15
SEA. Garnerville .....	1.00
New York Central and Fort Orange .....	.60
NEW YORK CENTRAL AND HUDSON RIVER .....	749.89
Amsterdam, Chuctanunda and Northern .....	1.50
Dunkirk, Allegheny Valley and Pittsburgh .....	42.30
Geneva and Lyons .....	14.12
New York Central and Niagara River .....	2.81
New York and Harlem .....	134.06
Niagara Bridge and Canandaigua .....	98.46
Spyten Duyvil and Port Morris .....	6.04
Troy and Greenbush .....	6.00
West Shore .....	426.97
New York, Chicago and St. Louis .....	68.07
NEW YORK CITY AND NORTHERN .....	52.90
West Side and Yonkers .....	1.16
NEW YORK, LAKE ERIE AND WESTERN .....	487.10
Avon, Genesee and Mount Morris .....	17.56
Buffalo, Bradford and Pittsburgh .....	7.81
Buffalo, New York and Erie .....	139.95
Buffalo and South-western .....	68.39
Conesus Lake .....	1.70
Erie and Genesee Valley .....	12.25
Elmira and State Line .....	6.52
Goshen and Deckertown .....	11.65
Lockport and Buffalo .....	13.89
Middletown and Crawford .....	10.22
Montgomery and Erie .....	10.22
Newburgh and New York .....	12.59
New York, Pennsylvania and Ohio .....	49.24
Northern Railroad of New Jersey .....	1.44
Nyack and Northern .....	4.38
Rochester and Genesee Valley .....	18.26
Suspension Bridge and Erie Junction .....	23.28
NEW YORK, NEW HAVEN AND HARTFORD .....	14.05
Harlem River and Port Chester .....	11.80
NEW YORK, ONTARIO AND WESTERN .....	319.72
Rome and Clinton .....	12.70
Utica, Clinton and Binghamton (steam) .....	31.30
New York and Massachusetts .....	36.16
New York and New England .....	30.72
New York and Rockaway Beach .....	10.75
New York, Rutland and Montreal .....	52.10
NEW YORK AND SEA BEACH .....	6.00

# LENGTH OF STEAM RAILROADS.

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Name of Company.	Miles in State of New York.
Sea Beach and Brighton.....	1.30
NEW YORK, SUSQUEHANNA AND WESTERN:	
Middletown, Unionville and Water Gap.....	13.00
Northern Adirondack.....	34.00
PENNSYLVANIA AND NEW YORK CANAL AND RAILWAY CO.:	
Lehigh Valley.....	12.00
Waverly and State Line.....	1.00
Port Jervis, Monticello and New York.....	23.75
PROSPECT PARK AND CONEY ISLAND (steam).....	5.75
New York and Coney Island.....	2.41
Rochester and Lake Ontario.....	6.05
ROME, WATERTOWN AND OGDENSEBURGH.....	388.51
Carthage, Watertown and Sacketts Harbor.....	29.59
Clayton and Theresa.....	15.87
Niagara Falls Branch.....	15.74
Norwood and Montreal.....	12.90
Oswego and Rome.....	28.49
Rochester and Ontario Belt.....	7.50
Syracuse, Phoenix and Oswego.....	15.74
Utica and Black River.....	133.94
Saratoga, Mount McGregor and Lake George.....	10.50
Schoharie Valley.....	4.38
Silver Lake.....	6.50
Skaneateles.....	6.00
SOUTHERN CENTRAL.....	114.00
Ithaca, Auburn and Western.....	37.72
Southfield Branch.....	1.00
STATEN ISLAND RAPID TRANSIT.....	6.00
Staten Island.....	13.00
Sterling Mountain.....	7.60
Stony Clove and Catskill Mountain.....	14.30
Syracuse and Baldwinsville.....	6.00
Syracuse, Ontario and New York.....	43.49
Tonawanda Valley and Cuba.....	59.09
Troy Union.....	2.14
ULSTER AND DELAWARE.....	78.00
Hobart Branch.....	3.61
Wallkill Valley.....	33.46

## INSPECTIONS.

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The following reports are condensations made by the inspector from his field notes. The field notes themselves are filed in the office of the Board, and show in very much greater detail the condition of the structures and road-bed. [*R. R. Comr's.*]

### ADIRONDACK RAILROAD.

In the interval between the inspection of 1885 and that of the present year, the condition of this property has been further improved. The maintenance of roadway and fencing is now more thorough than heretofore. Considerable of the brush, weeds and at points medium-sized timber have all been cleared entirely away between the fences, which, so far as accomplished, adds greatly to the appearance of the roadway.

It is suggested that this clearing of roadway and the rebuilding of fences be continued until the whole line is placed in like condition.

The side ditches are well opened, road-bed neatly kept, and the ties are not suffered to depreciate in life, but thorough renewals are made each season: 30,000 new sleepers being used this year, an average of 500 per mile, or entire renewal every five years.

As a whole the superstructure is very well ballasted, especially the northerly end, and the rail has been improved by the relaying of about five miles of steel in 1886, and ten additional miles of 65-pounds steel this season, making now about eighteen miles of steel laid.

The balance of the rail, forty-two miles, is mostly fish-plate iron, excepting a few miles of chair rail. Some of the rail at north end of road is quite a little battered at joints, and a mile, or perhaps two miles of new, would release this rather much-worn rail from the track. Great care is taken with the surface and alignment of superstructure, the whole of which was found in workmanlike condition.

Each of the truss bridges and girder openings were examined. At the crossing of the Sacandaga river the shore spans of sixty-three feet each have been lately rebuilt, and the two one-hundred and ten feet spans having trestle bents at panel points extending up to underside of flooring, have had the trestle work renewed this season.

A through Howe truss over Wolf creek would be improved if a standard flooring was provided. An eighty-seven feet span of like character near the Glen station also wants a stronger floor. Both of these bridges will probably be refloored before the end of the present year.

All highway signs and warnings at overhead obstructions were found in place.

All of the trestle and pile bridges, together with single span openings, were in strong life of timber, ample in size, and nearly all have a good floor system.

The same commendable care of station buildings heretofore observed is still noticeable. At Saratoga a fine general office and station has been erected. For transfer of passengers and local use the depot of the Delaware and Hudson Canal Company is used. South Corinth, Hadley, Thurman, Riverside and North Creek stations have each been thoroughly renovated inside and out, and well furnished. No pains are spared to keep the way stations neat and orderly in all respects.

Additions to the passenger equipment have been made and the cars are cleanly and wholesome.

### BROOKLYN, BATH AND WEST END RAILROAD.

This road is rapidly approaching a physical condition that will place it upon a par with the best maintained lines leading to Coney Island.

The Greenwood terminal was remodeled last year, but only in the arrangement of platform, making a more convenient way of loading passengers, otherwise the old station remains, and waiting-rooms are as before reported.

The repair shop has been removed to Guntherville. Air-brakes have been attached to equipment. The motive power is well kept up, and cars clean and in good repair.

Fourteen thousand ties and 600 tons 56-pounds steel are contemplated to be used this season in repairs. Many of the ties are now delivered along the road. A work train

was engaged in ballasting, surfacing and renewing sleepers. The changes in alignment, noted in last year's report, have all been completed, thus avoiding the numerous abrupt curves, and improving the ease of riding.

At West Brooklyn a new frame Queen Anne depot has been erected and another of like character at Bath Beach. The highway crossings are now provided with caution signs.

At Gravesend Beach a new line has lately been constructed which greatly improves the sharp curves heretofore operated.

At Coney Island the old depot is abandoned, and one-fourth mile of new road constructed across the salt marsh to the westerly side of the New York and Sea Beach depot, which is now used by this road.

All the switches out of main line are now points with automatic stands.

With the exception of the new road-bed to the Sea Beach depot, the surface and line of superstructure is very good. The men found at work on track will soon perfect all the superstructure ready for summer use. The bridging was all examined and found in good condition.

### BROOKLYN, FLATBUSH AND CONEY ISLAND RAILROAD.

A double track railroad, laid with steel rail, extending from Atlantic avenue, Brooklyn, to Coney Island, a distance of seven and one-half miles. During other than the summer months only one track is operated.

At Coney Island the ocean has made no further incursion upon the beach under the large hotel and terminal station, and it appears to stand as secure upon the piling as when seen last year. The depot yard and platforms remain as formerly reported. All of this road lies upon the company's property, no streets being occupied except at crossings. The roadway at the Brooklyn end is depressed and streets carried over the tracks by bridges of masonry abutments spanned with I beams which are filled in with brick arching; the whole showing thorough and costly construction.

A few cuttings near Flatbush, and the northerly end of the road have steep slopes, indicating that a further arching over was contemplated but not carried out. These steep slopes have recently been cleared of loose stone and boulders liable to roll on tracks. These boulders have been laid up in a rough wall at foot of slopes.

The openings consist of a pile bridge over Coney Island creek, having nine bays of thirteen feet each, and near Prospect Park a ten feet span waterway. These were examined and found in good physical condition and ample strength, except one stringer of the single span which should be renewed. In addition there are one or two openings of six feet or less span, which were in good order.

The equipment was undergoing a renovation at time of inspection, many of the cars being repainted, and all trucks thoroughly overhauled preparatory for the summer's work.

At time of inspection little had been done to the superstructure—new ties were being distributed to the number of 5,000, and the surfacing and lining of track was to progress with the renewal of sleepers. The track was in reasonably good order, the exception being rather too many old ties, which should be replaced. The fences are well kept up, and roadway neat and orderly.

The stations remain as heretofore reported. Sheepshhead Bay race-course, Kings highway, Greenville and Parkville are simply platforms, some of which have been lately repaired, and all will be placed in good condition before the opening of the season. Prospect Park has a brick depot well arranged and conveniently furnished. Butler and Bergen streets waiting-rooms are frame buildings, little used except during the summer. Bedford Avenue depot and terminal adjoining Atlantic avenue is the same as before reported—temporary in its construction but comfortable and well arranged.

On the whole this property is fairly well maintained.

### CARTHAGE AND ADIRONDACK RAILROAD.

This is a newly-constructed line connecting with the Utica division of the Rome, Watertown and Ogdensburg railroad at Carthage in Jefferson county, and extending easterly to extensive ore beds at Jayville, St. Lawrence county, a distance of twenty-nine and one-quarter miles; an extension easterly to other ore beds is now under construction.

Generally the alignment is direct with few curves, but east of Harrisville there is considerable curvature, some of which is quite abrupt. The maximum of grades is eighty feet, and of curvature seven and one-half degrees, and eighty feet is the average width of roadway. The road is well, and for its present purposes, substantially built, more so than is usual at first hands, where the incentive to construct is for the transportation of ore or like freight.

Considerable arch and box culvert masonry has been built, in fact nearly all the road is permanent way. The truss bridging is of iron resting upon substantial masonry, and the trestle work, of which there are but four pieces aggregating 2,200 feet in length (and these have culverts constructed preparatory to filling up), is very strongly built. Three waterways of twenty feet spans have I beam girders, and the minor openings have generally good masonry abutments. All openings are well floored and guard-railed.



The road-bed is generally of good width and well ballasted. The ties are of good size, and spaced 3,200 per mile. Sixty pounds per lineal foot steel rail is used, fastened with angle bars at ends and laid alternate suspended joints, and the track is exceedingly well surfaced and lined. Wire fencing is used and gates supplied at farm crossings. All highways crossed at grade have caution signs and slate cattle guards. Stub switches were first used out of main track, but these are being changed to points.

The bridges are constructed to sustain a line load of 4,000 pounds per lineal foot.

At Carthage the company have a small brick building for general office purposes, and for passengers and freight use the station buildings of the Rome, Watertown and Ogdensburgh railroad. Clear Water is a flag station. At Natural Bridge is a very fine frame passenger and freight station building, of best design and construction. It has one large waiting-room with individual sittings—all neatly finished in cherry wood. Diana is a flag station. Harrisville has a depot similar to that at Natural Bridge. At Jayville, where are located iron mines and at present the eastern terminal of the road, there is a good passenger and freight depot, well furnished and adapted to its locality.

A telegraph line has been constructed along the railroad and its poles are sufficiently removed from the rail to avoid danger in case they should fall.

A sufficient passenger equipment is provided and consists of good passenger, baggage and mail cars, all bright and cleanly kept.

#### CATSKILL MOUNTAIN RAILROAD.

The general outline of this three-foot gauge railroad remains as before reported, but its condition has been much improved since the last inspection made in 1885. The trestle work at Catskill Landing has been filled. At the approach to the second crossing of Catskill creek where was a trestle, there is now a through lattice bridge of fifty feet span. The trestle at Lawrenceville has been filled and the pile bridge replaced with three forty feet spans of through plate girders resting upon substantial masonry piers and abutments. Several trestle openings from eight to twelve feet spans have been rebuilt with masonry abutments and yellow pine girders. Each of the minor openings were examined and stringers found in strong life. A number of abutments have been relaid in cement. The iron trusses have lately been adjusted and all the iron work on the road repainted. All the openings are now provided with a strong flooring.

Much of the fencing has been rebuilt, owing in a great measure to poor construction.

Considerable road-bed has been rebalasted and 10,000 ties used this season in renewals. The line and surface of track has been greatly improved and is now in commendable order.

The station buildings are as before reported and were found in good condition.

#### *Cairo Branch,*

From Cairo Junction to Cairo village, a distance of four miles. When last inspected, the branch was near its completion. Its present maintenance is much lower than that of the main line. The superstructure is in an unfinished condition, the line and surface being irregular and uneven. It will require considerable labor to remedy these defects, and possibly at a point where now is a grade of 120 feet per mile, a slight change in location would be advisable. By so changing the line a maximum grade of not more than eighty feet per mile can be obtained, and the alignment improved, at a slight outlay of labor and money.

There is but one station building which is located at Cairo village. It has one large waiting-room, with freight-house attached. The waiting-room is creditably furnished.

Generally the Catskill Mountain road is now in good condition, which must be alike satisfactory to its owners and patrons.

#### CHATEAUGAY RAILROAD.

The last inspection of this road was made in 1885, and a report of its condition at that time may be found on page 234, of the first volume of the Railroad Commissioners' Report for that year.

During the past year an extension of the road to Loon lake, a distance of twenty miles, has been opened for traffic, and a further extension of nineteen miles to Saranac lake is now under construction, which, when completed, will make a total mileage of about seventy-four miles, all three feet gauge single track.

The inspection of the present season showed a gratifying condition of the property in its general maintenance and betterments. The entire line is laid with forty-seven pounds steel rail with fish-plate fastenings north, and angle bars south of Lyon Mountain, the whole tied at the rate of 3,000 sleepers per mile, all in strong life of timber.

In addition to the five pieces of trestle-work filled as last reported, there has been to some extent a continuance of like work, leaving nine trestles between Plattsburgh and Lyon Mountain, aggregating about 2,000 feet in length. These have mostly been lately renewed in part, and one or two of them will be filled this season. The single span openings have double stringers of good size, and all are closely tied, but guard rails are in most cases omitted.

The line and surface of track is in admirable order. Road-bed is wide, well drained and ballasted. Fencing is well kept up and roadway clear of brush and weeds, especially where adjoining cultivated lands.

At Plattsburgh the station buildings are as before reported. The station buildings at Morrisonville and Cadyville have been repaired and painted, and at Dannemora the depot has been thoroughly overhauled and refurnished. The Baranac depot is as before reported, and little used. At Lyon Mountain no change has been made or was any necessary. At this point commences the new road to Loon lake, all through a dense forest. It has a maximum grade of 100 feet per mile, and a curvature of twelve degrees. It is a well built road. Where masonry is used it is laid in cement and is a fair character of work.

There are eleven trestle bridges, from two to thirty-seven bays each, aggregating 2,000 feet in length, and three pile bridges, from two to four spans, aggregating 130 feet, all well and strongly built. The ties are spaced same as on older portion of the road. Road-bed well ditched and ballasted, and superstructure in good line and surface, with steel rails, angle-bar fastenings and laid alternate joints.

At the Loon lake terminal the company have built a very fine Queen Anne depot with large waiting-room nicely furnished. It is all finished in natural woods and has two fire-places in waiting-room intended to be used for burning wood. Covered platforms nearly surround the depot. A freight-house, engine-house and other buildings of wood have also been constructed. A Y is used upon which to turn entire trains if desired. To the equipment has been added this year two new passenger and one palace car and two locomotives. All the equipment is well kept up, neatly painted and cleanly. The property generally shows careful maintenance and in all respects has a commendable appearance.

#### CHAUTAUQUA LAKE RAILROAD.

This a newly constructed railroad opened for traffic about the first of August, 1887. It extends from Jamestown to a junction with the Buffalo, New York and Philadelphia railroad near Mayville, a distance of twenty-two miles, and has a right of trackage over the later road to Mayville, one and a quarter miles. From Mayville the road formerly known as the Mayville Extension—from Mayville to the Chautauqua Assembly grounds, a distance of two and one-half miles—is leased and operated by the Chautauqua Lake Railroad Company, making a total mileage of about twenty-five and one-third miles. Trains are also run over the Buffalo, New York and Philadelphia railroad from the Junction to Brocton.

The line traverses the easterly shore of Chautauqua lake generally a short distance from the water. It has many curves, a number of which have a radius of five hundred and seventy feet. The grades are undulating, and obtain a maximum of over seventy feet per mile in each direction. The width of roadway is sixty-six feet inclosed with five strands of wire fence.

There are no truss or overhead bridges. In the construction little masonry was built; all the openings being pile or trestle bridges having hemlock bents and pine stringers. The piles are four to each bent, capped with hemlock timber twelve inches square, and having double eight by fourteen inches section pine stringers. The trestles are of hemlock timber bents, generally resting upon mudsills; a few sills have pile bearings; the stringers are the same as in pile bridges. They all have good standard flooring of oak ties and guard rails. There are twenty-four trestle bridges from four to twelve feet spans, and from one to fifteen bays each, aggregating five hundred and eighty-two feet in length. Of pile work there are nine bridges, from one to five bays each, aggregating two hundred and four feet in length; these are all new. The ties are mostly hemlock spaced two thousand six hundred and forty per mile, and the rail is steel of sixty-six pounds section, secured at ends with angle plates, laid alternate suspended joints: the sharp curves are double spiked. Nearly all the road is more or less ballasted with gravel, but the track has not been perfected in line and surface, the work of which was progressing at the time of inspection.

A soft marsh is crossed near Jamestown, and considerable trouble is experienced in maintaining a road-bed. The north end of track is in fair condition.

Passenger stations, small but very tasty and convenient, have been erected at Bemus Point and Dewittville; Jamestown has a larger station. They are all comfortably furnished. The company have two new locomotives, a number of new passenger cars of latest design, and one combination car. They are equipped with Miller couplers and air brakes.

#### *Mayville to Chautauqua Assembly Grounds.*

This is a very poor piece of railroad, and is operated only during the summer months. The rail is chair iron, greatly worn. Some of the heads of rails are broken on flange side, and in fact in places nearly all the head of the rail is gone. The ties have been renewed to some extent, and a little has been done to line and surface, but at time of inspection it was in this respect in very poor order. There are a number of small openings and a pile bridge at Mayville, having piles settled at one end of bent, and blocking top of cap. All of these have a floor system, but ties are too widely spaced in some. This branch should not be operated over ten miles per hour in its present condition. There is a covered train-house at the Assembly grounds, with the necessary offices and waiting rooms.

## COOPERSTOWN AND SUSQUEHANNA VALLEY RAILROAD.

The last inspection of this road was made in 1885, as reported at page 294 of the first volume of Commissioners' Report for that year. The present inspection found a better maintained property, particularly in the matter of superstructure. The sleepers are now as a whole in good life, and the surface and line of track has been brought to a more perfect condition. The ballasting and ditching of roadbed has been improved in a marked degree. Most of the roadway is neatly kept, the fencing well maintained—considerable of which has been rebuilt with posts and barbed wire of good construction. The road generally shows a more thorough supervision; at least the results point decidedly in that direction.

The pile bridge crossing the Susquehanna river at Phoenix has been rebuilt, and a number of minor openings renewed, which places them nearly all in strong condition. A few were noticed as somewhat weak by reason of age, but the material for renewal was at hand, and renewing in progress. The Howe truss near Portlandville with auxiliary arch, about which there is some solicitude, remains as when last inspected. The timber has not deteriorated, but the difficulty of the truss and arch system, as arranged, working in unison, has caused anxiety for the safety of the structure. Great care and watchfulness are exercised with the bridge, and probably at an early day masonry abutments will be constructed and a new truss erected, which would certainly be on the side of assured safety. A simple truss, in which the strains may be clearly determined and with the least complication, constructed with a proper factor for safety is, in these days of increasing car loads, the most satisfactory. A floor system of ties has been laid on nearly all openings, but guard rails are often omitted; one or two openings have inside guard-rails. An overhead bridge south of Portlandville is too low for clearance of train men on deck of cars, and should have the warnings provided by statute.

The station buildings are the same as last reported; the one at Milford is quite objectionable, and a renovation is contemplated.

Miller couplers have been added to the passenger equipment, otherwise it is the same as last noted.

Generally this property is greatly improved in maintenance, and in this respect is nearly abreast with the leading roads of our State. It is a work that has been accomplished with limited means, which is none the less creditable to those in charge.

## DELAWARE, LACKAWANNA AND WESTERN RAILROAD.

The last inspection of this company's leased lines was made in 1885, and reported on pages 295 to 299 of the first volume of the Commissioners' Report for that year.

The main line within the State of New York comprises the Valley and the New York, Lackawanna and Western railroads from Pennsylvania State line to the International Bridge, in the city of Buffalo, and the lines in same city to the Main street passenger depot and coal sheds at Erie Basin, making a total distance of 218 miles. It is a double-tracked road of the best construction, and all west of Binghamton has been operated about five years. The eleven miles east of Binghamton has been in use about sixteen years.

Very few timber structures are now on the main line. Near East Buffalo there is about fifty feet of trestle left for a waterway, and near Buffalo creek about 400 feet retained for same purpose. Three-fourths of a mile of trestle bridge near Elmira has been filled, and all the trestle work of the elevated part of road in Buffalo city has been entirely filled up, the latter work requiring 1,000,000 cubic yards of material for that purpose. At the last inspection there were a few wooden girders at openings which have since been replaced with iron, the last work being the substitution of a through truss at a bridge approach where there was a trestle for a waterway. At this time there are no wooden structures except the two pieces at Buffalo left for the purposes heretofore stated.

The road-bed throughout is of ample width and ditches are well maintained. In the troublesome sliding slopes near Conklin a large amount of material has been moved to accomplish proper drainage, a work that has to be done nearly every spring. In the hurried laying of tracks between Binghamton and Buffalo a great number of hemlock ties were used, and while these have not all seriously decayed, the management has renewed them during this and last year, using this year 300,000 ties for that purpose. Occasionally a bridge was examined and no defects were noticed; these structures are of the best, all strongly floored and the iron work kept well painted.

The station buildings are as before reported. At Binghamton a change for the better convenience of operating is contemplated, the work being in progress. Such depots as were examined were found neatly kept in all respects. A casual inspection only was made, but sufficient, however, to note any defects, of which none were seen.

At East Buffalo a large series of coal-pockets, with a gravity track under the bins, have been constructed, of sufficient capacity to store 100,000 tons of coal. The structure is 1,300 feet long and ninety-eight feet wide, beside the incline approach at the east end.

*Cayuga Division.*

Owego to Ithaca, thirty-five miles, all single track, laid with steel rails, except about four miles of iron, which is considerably worn. As stated in previous report the main-

tenance of this branch is far below the other lines operated by the Delaware, Lackawanna and Western Company.

Comparatively little attention is given to this property, other than to keep it in safe condition, as the traffic is exceedingly light. There are twelve truss bridges, exclusive of the seven iron spans at Owego, crossing the Susquehanna river. Since the last inspection four trusses have been renewed as follows: Two short spans of low through Howe truss over highways on side hill south of Ithaca have been replaced with plate girders, and on the flats near same village two trusses of same type have been renewed, one of which was eighty and the other 100 feet in length. These renewals bring all the truss bridges to a very good condition. There is a considerable amount of trestle work, aggregating two-thirds of a mile in length, in various stages of life, none, however, seriously defective; and some of which has been renewed within the past two years. The objection of an open floor, however, on nearly all openings, has not been obviated, and it is suggested that such a system of floors as are in use on other lines operated by same company be applied to this road. Generally, when renewals have recently been made, a floor system, as suggested, has been applied. There is a continued neglect to properly adjust the line and surface of track which was so apparent two years ago, and in these respects the superstructure is in a very ordinary condition. Much of the ballast is worn out, and a renewal is essential to permanently maintain a workmanlike surface and line. The thorough re-ditching of many cuttings is also necessary. The fencing is quite run down at many points, and should receive attention. The ties are in fair life, but as a whole larger renewals are desirable. A few highway signs are not in place, and the cutting of weeds and underbrush is neglected.

The Owego depot on the main line is of the best construction and maintenance. At Cayuga the depot is quite sufficient in all respects. The intermediate stations are the same as reported in 1885.

Other than the renewal of bridges as now given, the previous report may properly be used with this in determining the condition of this branch road.

#### *Owego and Syracuse Division.*

In the report of 1885 a descriptive outline of this division is given. Since that time little change has been made in the property, and it is about the same as then reported. At Syracuse, coal pockets for canal freighting have been erected. A new summer outing place, a few miles from Syracuse, on the shore of Onondaga lake, has recently been opened up, and a platform for passengers provided. It was extensively patronized this season. Possibly further provisions for visitors will be provided, like covered platforms, so desirable in case of rain storms and protection from sun heat while waiting transportation.

The general maintenance of roadway, fences, bridges and superstructure is of the same excellent character as before reported. Point switches have entirely replaced the stub switch rails formerly used. The only adverse criticism is the numerous open floors of cattle-guards, many of which could be filled and slats substituted, and where such arrangement is undesirable, a strong floor system should be provided. A few of these openings, lately renewed, have a standard floor system; that is, they are closely tied and guard-railed.

A few points in the track were observed that required a renewal of sleepers; probably such defects will be remedied before the season closes. A plate-girder near North Fulton would be improved if a good coat of paint was applied. Nearly all of the way stations are as before reported. Some of these have been painted anew; they were found neatly kept. Baldwinsville needs a better depot. As a whole this division is in commendable order.

#### *Utica Division.*

From Utica to Chenango Forks, eighty-four miles, and the Richfield branch from Cassville Junction to Richfield Springs, twenty-two miles; all single track and laid entirely with steel rail, angle-bar fastenings, and mostly point switches out of main line.

The roadway and fences of the whole division are in as good order as before reported. The same painstaking to keep the full width of roadway tidy and fences secure, was observed. Considerable rebalasting of road-bed has been done this year, and the sleepers have generally been renewed. A marked improvement was noticed in the condition of the superstructure on the Richfield branch, all of which is now well maintained in every respect. On the main line of division the track is fully up to the high standard of two years ago, and no reasonable objection can be taken to the maintenance of way in any particular, except at one or two points where the ties had not been renewed, and the surface and line of track was deficient as compared with the whole.

In the matter of truss bridges much has been done. South of Sherburne, crossing Chenango river, were two spans of Howe trusses in good order, which were carried away by high water. A through pin-connected Pratt bridge of two 125-foot spans each, has been erected in their place. The two Howe trusses south of North Norwich, crossing the Chenango river, have been replaced with iron pin-connected Pratt bridges. Over Canasawacta creek, south of Norwich, are two plate-girder through bridges, of fifty feet spans, where there were low Howe trusses. About two miles further south the Chenango river is again crossed by two spans of through Pratt pin-connected iron



bridges in place of the Howe trusses. At Lyon Brook is a fifty-foot span low Howe truss on bents; probably this will be renewed in iron this season. At Coventry is a similar truss in like condition, which also may be renewed this year with iron. At Wheeler's creek is now a fifty-foot span plate-girder through, in place of the Howe truss when last inspected. At the crossings of the Chenango river above Willards are now two 150-foot spans of through Pratt pin-connected iron trusses, in the place of a wooden Howe bridge. At Indian creek is a forty-foot span low through Howe truss on bent at center, which is marked for renewal next season. At Chenango Forks are two 150-foot spans of through iron pin-connected Pratt trusses in place of the defective Howe bridge noted in previous report. On the northerly end of division near New Hartford, and crossing Sauquoit creek, is a 100-foot span through Howe truss, in good life, except a few floor beams, which should be renewed. Over a raceway is an eighty-foot span of like type, in same condition, wanting a few new floor beams and its rods adjusted. At Washington Mills is a 108-foot span Howe truss on bent at center—rods are light. This bridge should not be exposed to a bent for safety by reason of a large and rapid flow of water at time of freshets. Following and over the same stream is a ninety-eight feet span of same type in good condition. Over same stream south of Chadwicks is an eighty-foot span through Howe truss in good life. These six bridges have large wood members, and were thoroughly built, but mostly the truss rods have not enlarged ends. The strain sheets furnished the Commission will give the stress these rods sustain per square inch of section. South of Hubbardsville is a forty-foot span of low Howe truss on trestle abutments. The timber shows age at points, and will soon require renewal. This is followed by a fifty-foot span of like construction, the only apparent defect being a few too old floor beams. Another truss of like character, forty feet in length, is in similar condition. These low trusses will soon require renewal. On the Richfield branch near West Winfield, is a low Howe truss forty-five feet span in good life. Near Richfield Springs are three Howe truss bridges thirty to forty feet in length, two of which are in good life, and one will require renewing by another spring—possibly the middle bridge also. Excepting a few of the short trusses, as noted, all the bridges have masonry abutments and piers of excellent character of stone and workmanship. Each of the smaller openings, trestle and pile bridges were examined. A number of short plate and I beam girders have been put in south of Norwich. On the Richfield branch, near Bridgewater, where was a Queen truss on bents, a good plate-girder has been substituted. The pile and trestle bridges have all been renewed or thoroughly repaired since the previous report. A number of low short span pile openings through the Sangerfield swamp should be rebuilt, but as a whole the minor openings are well kept up.

On main line of division a number of excellent passenger stations have been recently built. Washington Mills, Chadwicks, Sauquoit, Waterville and Hubbardsville have new buildings. They are very tasty in design and well furnished. The New Waterville station is of best construction. It has two large waiting-rooms (platforms are covered), water-closets, and is neatly furnished. Flower plats are tastefully arranged at ends of building, approaches nicely graded, and the whole neatly kept. With one or two exceptions the same care and order were noticed at all the stations.

#### ELMIRA, CORTLAND AND NORTHERN RAILROAD.

The last inspection of this road was made May 12, 1885, as reported on pages 299, 300 and 301 of the first volume of the Commissioners' Report for that year. The present inspection was made as closely as possible in the severe rain storm which prevailed a portion of the day, and owing to a derailment near the center of the road, trains were out of regular schedule, and considerable time was lost. However, a sufficient knowledge of the road was obtained to present a fair statement of its condition to the Board. The northerly end of the road, from De Ruyter to Camden, was passed over at a later period and under more favorable circumstances. As before reported, the road is all laid with steel rails, angle-bar fastenings and joints alternating. Little has been done toward ballasting the line between Elmira and Canastota, which is essential to permanent maintenance of a well-surfaced superstructure; yet in this respect the track is not entirely deficient, and for the material now under it a very good line and surface prevails.

Many of the cuttings are through a clay soil, and the slopes are troublesome, filling the side ditches in the spring and fall, which have not been thoroughly reopened. Good drainage is of paramount necessity and should not be neglected.

Much of the fencing is broken and obliterated, a defect that is annoying to the adjoining land-owners, besides the danger of trespassing farm stock obstructing the track.

There is a large number of pile bridges, trestles and single span timber openings, resting on bents, that would be much less hazardous if renewed with masonry abutments, as these timber structures during the dry season are liable to be burned and cause disaster. Undoubtedly a careful watch is kept to prevent accident, but the sense of security and the permanence of stone work are good reasons for the renewal of all timber work possible. Each of the openings was examined as closely as could well be done under the circumstances at first mentioned. The large timber trestle, noted in last report, over a ravine and stream at Brookton, still remains. It has not improved in condition, and the unevenness of track on the bridge and its general appearance shows that it is time that an iron structure be erected, or the filling up, proposed two years ago, be attended to. The Howe and

Kellogg trusses between Elmira and Brookton, reported as in bad condition in 1885, have been replaced with pile bridges of good construction, and if properly maintained will probably answer a good purpose, the objection of fire excepted. One of the Howe trusses has been renewed with like type of bridge. At a number of points the sleepers have deteriorated in strength, by reason of age, too far for perfect security, and it is suggested that the volume of renewals be considerably augmented.

Each of the station buildings was inspected and all found in reasonably good order. Some of them have been quite thoroughly renovated. The platforms at a number of stations were found broken to a degree that is objectionable, and a better maintenance is desirable. During the past season the energies of the company have been largely employed in the construction of the Canastota and Camden Extension, which, in part, is the reason that the old portion of the road has not received the attention and renewals that it otherwise would. It is suggested that the small openings, depot platforms, ditching and retieing of road be now given the labor and materials which the situation demands.

The traffic of the road is rapidly increasing, and the consequent increased wear of permanent way will need to be met. Stub switches are yet largely used, and nearly thirty highway signs are not in place. New ones have been provided and probably will soon be set up.

#### *Canastota and Camden Extension,*

A newly-constructed, single track road extending from Canastota to Camden, a distance of about twenty-one miles. The line traverses the flat lands bordering the east end of Oneida lake, and the low rolling surface at Canastota and Camden. There is little curvature after crossing the Erie canal at Canastota, and the maximum grade, for a short distance only, is sixty-three feet per mile. Generally the grade is very light. The construction has been thoroughly done, and while there is considerable pile and trestle bridging for convenience of construction, it was the proper procedure, as the openings thus left will be more easily filled by construction trains than otherwise.

The width of roadway is sixty-six feet, all well fenced with posts and four strands of barbed wire, and gates at all farm crossings. Grade highway crossings are provided with caution signs, and the whole presents a finished appearance. The superstructure is laid with sixty pounds steel with angle-bar fastenings and broken suspended joints, and all point switches, and spring crossing plates out of main line. The sleepers are of good size, chestnut and oak, spaced over 2,800 per mile, the whole exceedingly well ballasted, surfaced and lined, and road-bed well drained.

At Canastota there is 5,100 feet of pile bridging, including the two truss bridges over the Central-Hudson road and the Erie canal. This pile work is of hemlock and spruce timber, four piles to each bent, strongly capped and girdered, and well floored. There are four other low pile bridges, from four to sixty-two bays each, and two low-trestle bridges from five to seventeen spans, all of which are strongly built and well floored. At Canastota there is an iron through Pratt truss over the Central-Hudson, and another of like construction over the Erie canal, both resting upon substantial masonry abutments. At the crossing of Fish creek at east end of Oneida lake, is a 140-foot span, through Pratt truss, used in common with the New York, Ontario and Western railroad, which is crossed at grade in center of span by two point switches and a sliding rail for crossing plate, both roads are here on tangent lines. This arrangement is at first glance objectionable, and an innovation on what would be considered safe for operation. A careful analysis, however, dispels objections, and on the whole, with distant signals, the same as used at other grade crossings of railroads, and all trains stopping before reaching the bridge, there is no objection to the plan adopted. A known grade crossing on a bridge would be an additional caution to train men, but a collision would be almost certain to precipitate the bridge and load into deep water. Near Sylvan Beach is a low Howe through truss of fifty-six feet span, resting on masonry abutments, and is well floored, as are all the openings on this piece of road.

At Camden the depot of the Rome, Watertown and Ogdensburgh road is used. Phelps is a flag station only. At Vienna is a small Queen Anne depot, of best design and construction, on stone foundation. It has one waiting-room, and a freight-room adjoining. Inside water-closets are provided, and a good platform surrounds the whole. At Sylvan Beach is a like depot, with a covered platform at one end. This station is largely used in the summer season. Lake Side has a similar depot building. They are all neatly kept and present a pleasing appearance.

The manner in which the extension is built, both in its permanency and in an engineering point of view, is commendable to the company and those in charge of its construction.

ELMIRA, N. Y., November 24, 1887.

GENTLEMEN — I have read the report of Mr. Inspector Spencer as to the physical condition of the Elmira, Cortland and Northern railroad, recently submitted by your honorable body to our president, Mr. Austin Corbin, and desire to express my thanks for the impartial manner in which the subject has been treated. I am quite sure you are well aware of the wretched condition of the property when the present owners took it only three years ago, and can bear witness through your able inspector, as to the

immense strides that have been made toward making it a first-class property, so far as its physical condition is concerned. Since Mr. Spencer was over, several trestles to which he objected have been renewed, others filled up, a large number of cattle-passes and water-ways rebuilt, several miles of good gravel spread and now under the track, a large number of cross-ties put in, fifteen stub switches and five three-throw switches taken out of main track, ditches thoroughly cleaned and cuts alluded to opened, besides a gang of carpenters at work on the Brookton trestle, putting on new stringers and strengthening it throughout. The fences have received considerable attention; besides ten miles of entirely new, we have repaired at least fifteen miles of old. We confess, however, there is a large amount of this work to be done yet, a matter which our president has in mind, and one which will be vigorously handled the coming year. Again thanking you for the favorable report to our president, I am

Respectfully,

ALBERT ALLEN,  
*General Superintendent.*

### ELMIRA AND LAKE ONTARIO RAILROAD.

(Northern Central R. R. Co., Lessee.)

This road is the result of the consolidation of the Elmira, Jefferson and Canandaigua, Sodus Bay and Southern and Chemung railroads, which were last inspected May 7, 1885.

#### *Sodus Point to Stanley.*

Distance thirty-four miles, all now laid with sixty pounds steel rail, secured at joints with angle plates, having six bolts in each fastening, and laid alternate suspended joints. Nearly the whole of the sleepers have been renewed, the road-bed has all been thoroughly ballasted, and the line and surface of superstructure is exceedingly workmanlike.

New fences of five strands barbed wire have been erected, and the roadway throughout is very cleanly kept, all brush and weeds being entirely removed from the property.

Very much has also been done during the season to the bridges, a number of which when previously inspected, were in poor condition. Masonry substructures have been built at most of them. Considerable other masonry has been constructed; one large arch culvert has been built for a farm crossing in a deep trestle, and the trestle filled. All of the small openings have been thoroughly repaired, or made entirely new, and each opening in road-bed has a strong floor system. Near Fairville is a trestle bridge one hundred and fifty feet in length, resting on piers of masonry, all of which is newly built. Mud creek has a one hundred and five feet span through Howe truss, on best of masonry abutments, where was a pile bridge. Another, crossing the same stream, has two long through spans of Howe trussing. Near the crossing under the N. Y. C. & H. R. R. R. at Newark, is a fifty-three feet span plate deck girder, over a highway, with excellent masonry abutments, and the trestle, north of Central-Hudson, is two-thirds, and south of the same road, entirely filled. The one hundred feet span Howe truss over the Central tracks, is to have masonry abutments and an iron truss only in the coming season. Over a stream are eleven bays of new trestle bridge, with bents resting upon piling. The pin-connected through Pratt truss, over the canal, has been reinforced, and trestle at south end filled. Over the highway at Newark is a new trestle bridge, with bents on masonry piers and new abutments, all of recent construction. At the outlet of Canandaigua lake is an iron viaduct of twelve bays of inverted truss bridging, resting on iron piers. These iron piers have been reinforced with a double timber bent inside, made of white pine timber. Quite a number of the minor openings between Newark and Stanley have been rebuilt.

Each of the depots were examined, and gratifying improvements were noted, especially at the junction with the Central-Hudson road at Newark. At this point a very convenient frame passenger depot, with inclined ways, to overcome the difference in the elevation of tracks, has been constructed, and at other points depots have been renovated and improved.

The work performed by the Northern-Central Company on this leased road, is such as to bring the property to a condition equal to their main line, which is one of thorough construction and maintenance.

#### *Canandaigua to Pennsylvania State Line.*

This portion of the Northern Central's line embraces the Elmira, Jefferson and Canandaigua and that portion of the Elmira and Williamsport road which lies in the State of New York.

Since the previous inspection made in 1885, there have been some changes and betterments. At Canandaigua, a branch line, one mile in length, from near the Central depot to the foot of Main street and to the lake, has been built. It is intended only for the transfer of freight from the lake to the main line. This is the only change noticed in the outline of the property.

In renewals and betterments, something has been done to the way stations and bridges. Other than these, the road is in the same well-maintained condition as before reported.

The road is all laid with sixty-pounds steel rail, and as a whole it is fairly ballasted. The sleepers are kept in strong life by frequent renewals, the roadway is in neat order, fences well maintained, and the superstructure very workmanlike in its line and surface.

There are the usual number of openings in road-bed, mostly trestle bridges from one to eighty-three bays each, all of which are carefully supervised, and were found in very good condition. A good floor system is provided at nearly all openings; a few, however, have yet the open floor, which should be remedied. At Big Stream and Rock Stream are deck Howe trusses of about one hundred and sixty feet spans each, with shorter spans for approaches. These structures are over deep ravines, in the hillside bordering Seneca Lake. At the second and third panel point of one, and the third and fourth of the other bridge, heavy double timber bents have been placed, resting upon piers of good masonry. These bents materially reduce the stresses, and as the trusses are in good strong life and well covered, they will last some time unless fire ensues. Watchmen, night and day, patrol all the bridges of moment on the entire road. Crossing the Glen creek at Watkins is an iron Bollman truss about one hundred feet span, of great strength. It was a two-truss double-track bridge, and was reduced to a single span by shortening the floor beams and overhead ties. It is the only bridge of its type seen by your inspector in the roads of our State. Adjoining on the south is a trestle waterway for which a thirty-foot span plate girder through is now delivered and will soon be in place.

South of Elmira, on the Williamsport road to State line, there have been no changes of moment since the previous inspection. The Howe trusses in course of erection at that time are, with the others, in best of maintenance, and the trusses have auxiliary arches on each side, acting independently of the trussing. This construction is adopted for all spans of one hundred feet or more, and has been already applied at most of such points. The trusses are designed to carry a rolling load of four thousand eight hundred pounds per lineal foot.

Each of the depots were examined and all were found well cared for. Bellona has a neat depot just completed. Penn Yan depot is in the same excellent order before reported; also that at Watkins. The smaller way stations are in good order, and in their keeping do not appear to be neglected.

#### FALL BROOK COAL COMPANY.

##### *Syracuse, Geneva and Corning Railroad,*

The last inspection of this road was made June 1, 1885, and reported on pages 301 and 302 of the first volume of Commissioners' Report for that year.

The present examination found a further improvement in small openings, bridges and superstructure. The roadway, fencing and stations were found in the same good order as heretofore reported. The fencing is especially well kept up, and renewals are generally made with five strands of wire and posts. Care is taken with the roadway, and its freedom from old debris, weeds and underbrush from fence to fence gave the property a thrifty appearance. The ballasting has been increased and the line of road-bed neatly defined.

A few of the way stations were found with platforms broken. With the exception of Earl and Post Creek the inside of stations were found cleanly, which appeared to be the manner they were generally kept. All are very well furnished and mostly in good repair.

The work of substituting stone and iron for timber work at minor openings has been done with two or three exceptions, and all have a strong floor system except one span of eight feet, and a few cattle-guards which are to be changed to slats.

Over thirty trestles and wooden girders have thus been reconstructed, their spans varying from five to twenty-five feet. At Big Stream an iron viaduct, 485 feet long, has been constructed, taking the place of a wooden trestle. Spring Gully, where was a trestle 210 feet in length, has been filled. At Gravel Run, where was a one hundred and fifty feet span deck Howe truss with trestle approaches, a riveted lattice deck with plate girders for approaches has been erected. These new structures remove all the wood trussing, trestle work and nearly all wooden girders between Geneva and Corning. The viaduct over Watkins Glen has been strengthened as requested by the Board of Railroad Commissioners. Plate girders now span the space between the iron bents in place of the inverted Fink trusses. At the crossing of Chemung river at Corning heavy beams have been put in the floor and the trestle approach on south side of river entirely filled.

Almost twenty-three miles of seventy-six pounds steel rail has been laid since the inspection of 1885, making all the superstructure of this weight of rail. Many of the soft wood ties have been renewed in oak and chestnut, and the sleepers as a whole are in strong life. There is a marked improvement in the maintenance of a workmanlike line and surface of track. All was found in good condition, some of the sections remarkably so, notably the one near Beaver Dam.

The construction of iron and stone bridges, the laying of heavy rail and the maintenance of a better superstructure, makes an improvement in this property in the past four years which cannot but be gratifying to all interested.

#### *Penn Yan Branch.*

A newly constructed road from Dresden, generally following the towing path of the abandoned Crooked Lake canal to the north end of Keuka lake in the village of Penn



Yan, a distance of about six and one-half miles. The maximum curvature is twenty degrees, and grade 132 feet per mile, upon which there is an overhead highway bridge only sixteen feet above top of rail. This bridge could readily be raised to give twenty feet head room. By reason of the heavy grade, and consequent necessity of having men at brakes, the low bridge is very dangerous. Warnings are provided as required by law, and all highways have caution signs.

There are no truss bridges and only a few stringer openings. A number of paper mills are convenienced by this road, but as yet there are no way station buildings. At the dock in Penn Yan there is a neatly built waiting room and covered platform. In Penn Yan village is a two waiting room frame depot of good design and well kept.

The superstructure is closely tied and very well surfaced and lined. All sharp curves are well rail-braced, but on the extreme sharp curves an inside guard rail is suggested.

### *Corning, Cowanesque and Antrim Railroad.*

From Corning to Lawrenceville and Pennsylvania State line, a distance of about fifteen and one-half miles. Single track newly laid with seventy-six pounds steel rail, angle bar fastenings, alternate suspended joints and well lined and surfaced. The previous objections to this road were the number of openings, from eight to twenty feet long, having open floors. This has to a great extent been remedied, there being but two such openings now in the road-bed. Three plate girders have taken the place of wooden stringers, and cast-iron piping used in place of small openings.

Lawrenceville station is the same as before reported. The depot and general offices of the Fall Brook Coal Company at Corning are well maintained and exceedingly well kept.

As a whole the leased lines of the Fall Brook Coal Company show a better maintenance than the average roads of our State, much of which has been accomplished in the past five years.

### FITCHBURGH RAILROAD.

(Lessee, Troy and Boston Railroad.)

#### *Main Line.*

From Troy to Vermont State line, a distance of thirty-four and three-quarter miles. A careful inspection of this road was made late last fall and its improved condition, over that found on previous examinations, was then reported by the Commission in their first volume of that year, at pages 232, 3 and 4. About the first of June, 1887, the whole property, including the Bennington branch, was leased to the Fitchburg Railroad Company, who have since operated the road. June 10th, 1887, your inspector, accompanied by Mr. Adams, general superintendent, and Mr. Turner, chief engineer, with other officers of the Fitchburg company, made a rapid inspection of the road, sufficient in detail, however, to look at such points which, from the frequent inspections, are well known to the Board as in most pressing need of attention. No changes of moment were observed since the last inspection, but preparations for bringing the property to an equal condition with the Fitchburg road were being made, and work already begun. Twenty thousand ties are ordered for renewals this season.

At the highway crossing south of Lansingburgh, now spanned with a low Howe truss, is to be changed to a plate girder through. The deck riveted lattice double track bridge is having a new flooring for two tracks. The Haines bridge over Hoosick river, noted in last report as having defective lower chords, is to be bent at once, and an iron bridge erected this year. The other wooden trusses are to either be rebuilt or reinforced to a standard of four thousand pounds of moving load per lineal foot.

The fencing is being renewed with five strands of wire and posts, and the roadway from fence to fence cleared entirely of weeds and underbrush. The surface and line of superstructure is now in good order, and the work of ditching road-bed and reballasting track in progress, and the force of section men is largely increased. All the tracks in freight yard at Troy are being relaid, and point switches, with stands having lamps for night service, are being put up on entire road.

#### *Bennington Branch,*

Hoosac Junction to Vermont State line, a distance of five miles. This division is in same condition as reported last fall. As yet no betterments other than improved track surface have been made. It was stated by the new managers that it was the intention to make this branch equal in maintenance to the main line. The structures were each examined, and nothing of moment found very objectionable.

#### *Boston, Hoosac Tunnel and Western Division.*

Inspection began at Vermont State line, thence to East Saratoga Junction, to Saratoga; to Schuylerville and then from East Saratoga Junction to Rotterdam Junction. The last inspection of this road was made in 1885. The entire length of road and branches is about eighty-one miles, all single track, except four and one-half miles double track east of Mechanicville.

The Report of 1885 will give a description of construction, and detail of bridges and openings which are the same now as then reported. In maintenance the superstructure of the roads is in a lower condition, especially in its sleepers, which require a large renewal, and better surfacing and lining of track. It is stated that five hundred ties per mile would be the amount of renewals this season, which if done will bring the life of sleepers to an excellent condition. The fences are at many points in poor order. Six miles of seventy-two pounds steel rails is ready to be placed in superstructure, and all stub switches are to be replaced with points.

Many of the iron trusses and girders require painting, and a few floorings need renewal. The slopes of a number of cuttings have slid into the side ditches, which should be removed and a better drainage given to road-bed. West of Hammond are a number of plate girders which have crushed pedestal or bridge seats, one or two of which are entirely broken up. These bridge seats are to be renewed at once.

From East Saratoga Junction to Saratoga, and the Schuylerville branch are in much the same condition as before reported. This road has very little ballast. The clay cuttings have slid in considerably, and a work train was removing the slides and opening the side ditches.

Near Ketchums are twenty-two bays of trestle, newly rebuilt of yellow pine timber. There are about thirty single openings between Saratoga Junction and Saratoga, from four to eighteen feet each, all of which were examined and found in fair condition. A few cattle-guards have open floors, all the others have a strong floor system. The line and surface of track is in ordinary maintenance, which is being improved and sleepers renewed.

Between Schuylerville Junction and Schuylerville the sleepers are in very low strength, and a renewal was in progress. A ten feet span waterway has rail on stringer, and a number of others are of like construction. There are three pile bridges from ten to forty bays each, and three pieces of trestle work from fifteen to one hundred spans each. These bridges are being in part renewed, sufficient, however, to remove all too old timber. Generally a strong floor system is provided.

All of the passenger depots were examined. They are well built frame structures, generally cleanly kept and well furnished. The depot at Saratoga is now in excellent condition and well furnished.

As before intimated, it is the intention of the present operators of the Troy and Boston, and Boston, Hoosac Tunnel and Western railroads, to bring both properties into a first-class condition, and the manner in which the work has begun, warrants the assertion that so desirable a result will be accomplished.

FITCHBURG, MASS., November 30, 1887.

GENTLEMEN—Yours of 23d inst. to E. B. Phillips, Esq., president Fitchburg railroad, was by him referred to me. Regarding improvements on the Troy and Boston, and Boston, Hoosac Tunnel and Western railroads noted in Inspector's report, the following have been carried out.

*Troy and Boston Railroad*—Iron plate girders have been ordered for highway south of Lansingburgh and should be in place by December 31; new floor has been placed on riveted lattice. The Haines bridge has been supported on trestles and a new bridge ordered; the next bridge east has been removed, a trestle built and new bridge ordered, both new bridges to be delivered in December. All other wooden trusses have been strengthened. Twenty-three and five-tenths miles of fence have been built and much of the old fence repaired; weeds and underbrush have been cleared from right of way. Twenty miles of the road has been thoroughly ditched and six miles rebalasted. Over one-half the side tracks have been relaid with steel rails, and one-half of the switches on main line replaced with improved point switches having lanterns. Switches will nearly all be of improved kind by December 31. Thirty-five thousand ties put in track.

*Bennington Branch*—Bridges have been improved and strengthened.

*Boston, Hoosac Tunnel and Western*—Forty-five thousand ties have been placed in tracks of this road and seven hundred tons of seventy-two pounds steel rail. The road has been ditched and three bank walls built near Schaghticoke; six miles of track balasted with good material. The iron bridges on both roads have been thoroughly repaired, all loose rivets cut out and replaced and bridges painted. Trestles at Saratoga lake and Ketchum's have been rebuilt, bridge seats have been put under bridges west of Hammonds, and masonry repaired or rebuilt. Floors of 8x8 hard pine put on all bridges showing weakness or decay in floors. Repairs made to depots and platforms and new depot built at Reynolds. At Troy, three hundred tons of seventy-two pound rails put in main track, and two-thirds of tracks in yard relaid with new ties and steel rails.

Work is still being done and will be continued as long as weather will admit. Nearly all of the work noted in Inspector's report has been completed or will be by December 31. The roads are now operated as double track from Vermont State line to Johnsville.

Thanking you for your courtesy in sending copy of Mr. Spencer's report, I am,

Yours, truly,

E. K. TURNER,

Chief Engineer.

## FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD.

A further improvement in the maintenance of this property is noted since the inspection of 1885. Several miles of additional steel rails have been laid, and the whole is in good condition. All of the truss bridges and small openings were carefully examined. The Queen truss at Fonda is to be replaced with an iron structure. The present bridge is yet in fair life of timber. The deck riveted lattice over Cayadutta creek remains as before, except the bridge seats have been repaired as much as possible without entirely rebuilding the abutments. The other trusses are as before reported. All of the smaller openings have now a good floor system, with rolled iron beams, or T rails for girders. The pile and trestle bridges at north end of road have been renewed where necessary, and all are now in good order. Some of the plate girders should be repainted.

The roadway is cleanly kept, weeds and brush cut, and the fencing has been put in general good condition, four strands of wire fence being used in renewals. Some of the slopes of cuttings are troublesome, and where slides have occurred re-ditching is necessary. The sleepers are generally in good life, 7,000 being used in renewals this year. A more workmanlike surface and line of superstructure is noticeable, and the ballasting of track has been improved at a number of points.

Point switches are being substituted for the stub switch rail.

Each of the depots were inspected, and all found cleanly kept and in fair order. At Johnstown a brick station building is contemplated, which is desirable.

As a whole, the road is in commendable order. Additions have been made to the equipment, and while the passenger coaches are not of latest design, they are kept in good order and wholesome condition.

## GENEVA, ITHACA AND SAYRE RAILROAD.

The last inspection of this road was made in 1885, and reported at page 303 of the first volume of Commissioners' Report for that year. The outline of the road remains the same as before reported, and its condition has been well sustained during the past two years. There is but little timber work in short span waterways, and but five pile and trestle bridges from seven to ten bays. These are in strong life, well floored and have inside T rail guards. Three of these bridges are new. All the truss bridges are of iron, and plate girders have been substituted for short spans. Nearly all openings have a strong floor system.

The fences are well kept up, and roadway clear of weeds and brush, except along the hillside bordering Cayuga lake. A good, wide road-bed, well shouldered out and a thoroughly ballasted superstructure prevails over the entire main line. Considerable ballasting has been done since last inspection, and at points gravel two feet in depth has been placed on the road-bed, and side ditches are well opened. The sleepers are, as a whole, in strong life, and the surface and line of track is excellent.

The Cayuga Lake division is in the same fair order as heretofore reported, and the road-bed on water side along the lake, has been further strengthened with rip-rap. At points the waves of the lake have washed away the road-bed considerably, and a further protection is necessary. The ties on this branch are in reasonably good life, which is necessary to be maintained, as the alignment is in a large percentage curved, some of which is quite abrupt.

All of the station buildings were examined. At Spencer the old building has been enlarged and renovated. At Aurora no settlement of obstructing difficulties has been reached, and the shanty depot building, which is unfit for the purpose of a station, still remains. It is to be hoped that soon arrangements can be made by which a proper station building may be erected. All the other depots are in good order; some of them have been overhauled and repaired. They were all found cleanly kept and mostly well furnished.

The property generally is in excellent condition, and ranks well with the best railroads in the State.

## GREENWICH AND JOHNSONVILLE RAILROAD.

Twelve miles of this road is now laid with steel rails, secured with angle plates. Six miles of new steel has been laid since the last inspection, made in 1885, and one mile in addition is to go in this year. The iron rail then remaining will answer possibly for another winter, but being considerably worn should all be removed next season. Generally the sleepers are in good life, and a fair line and surface of track is maintained. The ditching of road-bed is somewhat neglected, and a thorough ballasting of some cuttings would aid in keeping a good surface of track. The roadway is well kept, but the fencing is much run down, and should be thoroughly repaired and renewed when entirely gone.

Each of the bridges and small openings were examined. At the crossing of Hoosick river in Johnsonville, are three spans of deck Howe truss, covered and in good life. The center span shows some weakening at lower chords, and the center of first panel rests on the wall plates, which is not good construction. The trestle approach at south end requires a few new posts and sills, as the tenons are entirely rotted off. This trestle

should be thoroughly overhauled and all decayed timber removed. Near Easton is an opening eighteen and one-half feet clear span, which has two stringers on each side of track eight inches wide and fifteen inches in depth. An additional stringer seven by fifteen inches section is suggested. A trestle work of four spans, eight feet each, has very old posts much decayed, and should be renewed. A twenty-two and one-half feet opening has stringers of a total section of 832 square inches, which is almost too limited for the length of span, they are sixteen inches in depth. It would be difficult to maintain a bent at center of this span. A three-span trestle of twelve feet each has bents inclining considerably, they should be set upright. Crossing the Battenkill are three spans of deck Howe truss covered; the two north spans have pile bents under first panel point. The timber in this bridge is only in fair life. The depth of truss is too shallow for length of span and size of members. Under the main track at Greenwich are pockets for local supply of coal. The pockets or bins are constructed in the trestle supporting the track. Some of the vertical posts, brace-posts and sills are entirely decayed, leaving only one vertical and one brace-post in condition. A number of bins were full of coal, and bottom of uprights and sills could not be inspected. It is suggested that the entire trestle be carefully examined, and all decayed material replaced with sound timber. The floor system at some lately rebuilt openings has been improved, but there are a number of short openings having plank ties, often quite old, that should be replaced with a strong flooring. The station buildings are as before reported, and those at terminals were found neatly kept and in good repair.

GREENWICH, N. Y., November 23, 1887.

GENTLEMEN — Your letter to Mr. Wm. D. Robinson, president, accompanied by your inspector's report of the condition of this road has been referred to me, and in reply would say, all the suggestions in your inspector's report for repairs to be made to the bridges, trestles, coal bins and fences were made to me at the time the inspection was made, and have been fully carried out in every respect.

Yours truly,

J. H. THOMPSON,

*Superintendent.*

#### HARTFORD AND CONNECTICUT WESTERN RAILROAD.

This line of railroad is in about the same physical condition as reported in 1885, at which time the last inspection was made, though some of the defects at that time noted have since been remedied.

The Queen truss, east of the Central-Hudson tracks at Rhinecliff, has been rebuilt, and, to some extent, the entire trestle at same point has been repaired. There are about fifty-six short spans for waterways, cattle-passes and under farm and highway crossings, each from six to thirty-two feet opening. Thirteen of these have lately been rebuilt and have a good flooring, the remainder are in fair condition, with generally good masonry substructures. At a number of these openings, however, the masonry is in poor order, and occasionally the stringers are too old. It is suggested that all of these minor openings that can be dispensed with be filled up, and the remainder more thoroughly maintained; where the masonry is defective it should be rebuilt. The truss bridges are all in excellent condition. There are five pile bridges, some of which have been reinforced with new intermediate bents, and have a good floor. There are about five trestle bridges having from two to ten bays each. The Jackson trestle is to be entirely rebuilt this year, and other trestles have been repaired, some of them having new intermediate bents.

There are now about seventeen miles of steel rail in the track; much of the iron rail is considerably worn, making a further renewal desirable. The ties have been renewed to some extent; twelve thousand were renewed in 1886, and twenty thousand will be replaced this year. At time of this inspection, the sleepers between Boston Corners and the Newburgh, Dutchess and Connecticut junction were in very poor condition, and require large renewals. The side ditches also need to be improved. Generally the ditches are well opened, and the line and surface of track is in fair order. The fencing has not been renewed or repaired to the extent that appears necessary, and a further rebuilding is suggested.

Each of the depot buildings were examined. At Lower Rhinebeck that of the Central-Hudson is used, and Upper Rhinebeck, Upper Red Hook, Spring Lake, Ellerslie, Jackson Corners, Mount Ross and Copake, have small frame passenger and freight depots combined. The one waiting-room is small and very uncomfortably furnished. At Boston Corners and Millerton the depot accommodations of the Harlem road are used. Ancram has two good waiting-rooms, neat and in good condition, as are generally the others. Two or three of the stations, however, are in poor repair, and not as cleanly as they should be kept.

As a whole, the property is in reasonably good condition, but a better maintenance of small openings, sleepers and station buildings is desirable.

HARTFORD, CONN., November 28, 1887.

GENTLEMEN — Yours of the 22d instant, inclosing report of inspection of the track of this company, is received and noted.

In reply would say that since the inspection we have entirely rebuilt the trestle at Jackson Corners; also, the bridge and trestle over the highway at Ellerslie. The trestle at Boston Corners has had new intermediate bents, and the small openings between Upper Rhinebeck and Lower Rhinebeck received attention. The track between Boston Corners and the Newburgh, Dutchess and Connecticut Junction has received three hundred tons steel rails (62 lbs.), and a large number of new ties, and is now in very good condition.

We have employed during the summer a gang of from four to six masons, on new work, relaying some old work and pointing old work between Rhinebeck and Ancram.

Station platforms have been generally repaired, and it is intended to improve some stations during the winter.

Timber has been bought for extensive repairs on the large trestle at Rhinebeck lower station, over the N. Y. C. & H. R. R. R. track.

Respectfully yours,

JAMES W. HUSTED,

*President.*

#### KAATERSKILL RAILROAD.

This is a three-foot gauge railroad from Kaaterskill Junction, with the Stony Clove and Catskill Mountain railroad to Kaaterskill, a distance of about eight miles. The road is operated for about four months in the year, the traffic being principally summer travel.

Its condition is nearly the same as last reported on page 306 of the report for the year 1885. Some of the piling showing too much decay has been renewed, and a few openings have been filled. Cuttings are still troublesome, and slides filled the ditches which were being opened, and track put into condition for summer travel.

There are sixteen trestle and pile bridges, mostly twenty-five foot spans, and a one hundred foot deck Howe truss, with seven spans of trestle approach, all built of spruce timber. Generally the trestles rest upon masonry piers and abutments. These bridges have large sized stringers and are strongly floored.

The ties were being replaced where necessary, but as yet there is little renewals required. The road is now about four year old and the timber has not seriously deteriorated. Careful examinations have been made by boring, and all defective material removed. The road was probably intended for a standard gauge, as the size of the bridge members indicate. A few places on embankments on outside of curves were noticed as being too narrow, and it is suggested that they be properly filled out.

The summer passenger depots are very good, indeed, and well kept up. At the Junction a box car is used for a depot; probably the transfer is slight, but if that be true a better waiting-room, and for summer use a good covered platform as at the other stations, seems to be really necessary for the convenience of the public.

#### LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD.

The last inspection of this road was made in 1885, and reported in the first volume of Commissioners' Report, at pages 309 and 310. The inspection of this year was rapidly made, but in sufficient detail to note the condition of the property. The same superior track maintenance was observed, and a further ballasting of superstructure and a coating two inches in depth of very clean gravel, called a dust cover, has been given very much of the road-road. The line of ballast and its water shed has been uniformly defined, and the ditches in cutting neatly opened. The whole road-bed is very workmanlike, and roadway neatly kept.

The fencing is in strong life, and thorough maintenance along the entire road. All highway signs are now in place. Fifty thousand new oak sleepers have been used in both tracks this season, yet it was noticed that the ties at a number of points were not as strong as desirable and renewals were necessary; probably this defect has received attention. The surface and line of superstructure is perfect where rebalasted, and the whole cannot be adversely criticised.

In the matter of open floors at cattle-guards, under farm crossings and minor span waterways, the company has adopted a good floor system, and many of these open floors before noted have new ties and guard-rail or spacing ribbons, which is very desirable in case of derailment. On both tracks, however, there are 142 openings, from four to twelve feet spans, mostly cattle-guards, that have no protection, such as suggested in last report. It is possible to fill up some of the cattle-guards and substitute iron pipe for draining and slats to turn farm stock. Where this is not advisable, and at all places where the road-bed must be broken, a good floor system is very essential. Each of the bridges were examined—some of the rivet work needs attention, otherwise they are in good condition. The track stringers have been rearranged on some of the trusses, and other suggestions of the Board complied with. The north-west wing of abutment at Big Sister Creek bridge has been rebuilt, and two or three other pieces of masonry relaid.

Each of the passenger depots were examined. They were found in admirable condition, clean, well-maintained and furnished comfortably; platforms all in good condition, and some of the larger stations have very neat flower plots and lawns. At West Hamburgh and at State Line fine depots have been erected this year. Not an objectionable



feature was noticed in any of these way stations. Farnham has a passenger room on same level with freight house, and requires steps to reach it from the track. The waiting room is small but very tidy. This property is kept up to a high standard, and details of maintenance have careful supervision.

CHICAGO, ILL., November 25, 1887.

GENTLEMEN — I have received your favor inclosing report of inspector of the physical condition of our road in the State of New York.

The addition of ties over the stringers on our cattle-guards in the State of New York will be carried along as fast as practicable. There are many of them on which the bottoms of the ties come below the top of the masonry. In such cases it is impracticable to make the change, except as the track is raised. In all other cases the ties will be added as rapidly as possible.

Very truly yours,

JOHN NEWELL,

*President.*

#### LEHIGH AND HUDSON RIVER RAILWAY.

The last inspection of this road was made in 1885, as reported on page 309 of the first volume of the Commissioners' Report for that year. The iron rail between Greycourt and Warwick is very much worn and is to be relaid with steel this year, which will entirely remove the iron rail. The stub switch rails are to be replaced with points.

The only wooden truss bridge remaining has been replaced with a plate girder through truss, and such iron trusses as were light in some of their members have been reinforced as suggested by the Board of Railroad Commissioners. There are twenty-nine openings in road-bed, from four to thirteen feet wide, for waterways, cattle-passes and under farm crossings. Many of these have masonry abutments, laid dry, which show signs of failure and require to be rebuilt; all of the stringers were found in reasonably good condition, more than half of them being new, and all openings have a good floor system, except one cattle-pass has the rail on track stringer. All highway signs are in place. The roadway is neatly kept and the fences, with occasional exceptions, well maintained. A few cuttings require reditching, and a slight ballasting of road-bed would add much to the maintenance of line and surface.

¶ The depots were all examined and were found about as last reported. The Greycourt depot of the Erie railroad is in the same unsatisfactory condition. It certainly should be enlarged and renovated.

WARWICK, N. Y., November 28, 1887.

W-GENTLEMEN — Your favor of the 22d inst. received. The track of the Lehigh and Hudson River railway between Greycourt and Warwick is now laid with sixty pounds steel rail, with modern splice bars and fastenings. All the switches, except one at Stone Bridge, have been replaced with split switches. All openings have a floor system, as recommended by your Board, and all stringers are in good condition; in fact the track is now in first-rate condition. All depots have been repaired and painted, except at Warwick station. New sixty-pounds steel rails have been distributed between Warwick and the State line, which will be laid during the present year. Ditches have been cleaned out at points on the road requiring more perfect drainage.

The plans for the new depot at Greycourt are now prepared, and propositions for construction will be in at an early day.

Yours truly,

GRINNEL BURT,

*President.*

P. S. — The walls of the several cattle-passes and waterways between Greycourt and Warwick have been repaired.

G. BURT,

*President.*

#### MIDDLEBURGH AND SCHOHARIE RAILROAD.

There is very little change in the physical condition of this road from that reported in 1885. The forty-five pounds iron chair-rail is much worn and more or less bent. There is about two and one-half miles of this rail yet in the road, and its renewal appears to be necessary. The sleepers have been raised to a greater strength by more frequent renewals, but the line and surface of track is quite ordinary. There is very little ballast under the superstructure, consequently a few days' rain or action of frost makes it difficult to keep a good conditioned track.

Each of the openings were examined. Some of the worn forty-five pounds iron rail is used for girders at openings of six to nine feet span; two or three rails under each side. This is a little too light, and one rail was found broken completely in two. Care is not taken to obtain a uniform bearing, hence one rail may have attempted to carry a load

sufficient for two or three falls. Two or three timber girder openings have been rebuilt. Some of the cuttings should be reditched; in fact, considerable work is necessary to be done to bring the road up to a good workmanlike maintenance.

There is very little fencing, not more than one-third the length of road; the adjoining owners preferring to use the rich flat lands as closely to the track as possible.

The road is operated jointly with the Schoharie Valley railroad—one train service on both properties.

#### NEW YORK CITY AND NORTHERN RAILROAD.

A careful examination was made of this road, and it is gratifying to report that the whole line was found in excellent condition. When last inspected in 1885, the north end of line between Whitson and the Harlem railroad crossing was not in good condition—it appeared to have fallen below the average maintenance of the south end of the road. This has all been remedied by the relaying of rails, ballasting, retieing of track, clearing out of sliding slopes, and protecting where necessary with retaining walls, and thoroughly draining the road-bed. One or two arch culverts have been constructed, and the masonry and bridging generally, have been put in good order.

Twenty thousand ties were used in 1886, and 15,000 are on hand for renewals this year, most of which are wanted on the lower end of road, as the general condition of the sleepers on that portion of the road indicate.

All of the iron trusses advised by the Board to be reinforced have been thus treated, and the maintenance of all openings was found very strong. All bridge floors are closely tied, strongly guard-railed, and those of any moment have inside T rail guards extending to a point fifty feet each way on the adjoining road-bed.

The fences were found in excellent condition, and roadway neat and orderly.

The trestle approaches and bridge over the Harlem road was omitted at time of general inspection, but at a subsequent period your inspector gave the structure a careful examination. No serious defect was found, the timber is in good life, and the timber in the trusses spanning the Harlem railroad tracks show no particular signs of failure except a few outside splicing blocks have warped, and a renewal would be advisable. The lower chords have not opened at ends, where spliced, and the trestle abutments are yet in good life. With this exception all the truss bridges are of iron, and have mostly been repainted. Plate-girders and rolled iron beams are largely used at short openings. The pile bridge near Yorktown, 1,500 feet in length, crossing a soft marsh, and which settles more or less continually, is well cared for and kept in first-class order.

Each of the passenger depots were examined and all found neatly kept, and in good condition; a number of them have lately been painted and renovated inside and out. They are all comfortably furnished.

The entire track was found in excellent line and surface, much better than when last inspected. The conditions of this property so far as relates to its maintenance since that found when first inspected by the Board in 1883, has improved to such an extent that it may now be classed among the best maintained roads in the State.

#### NEW YORK, CHICAGO AND ST. LOUIS.

The last inspection of this road was made in 1885, and reported at page 310 of the first volume of the Commissioners' Report for that year. The present examination was made in great detail, care being taken to look carefully over all the openings, particularly those constructed of timber. It is now about four years since the opening of the line and many of the structures are five years old, a length of time insufficient for timber to materially decay, yet in this instance many of the structures show age that can only be accounted for by the supposition that old timber cut some length of time was used. As a whole, however, there was little found seriously defective, and already a large amount of renewals have been made. In this State there are about 144 timber openings, from single spans of four feet to spans of seventeen feet, and of trestle and pile bridges from two to one hundred bays each, of fourteen-foot spans, aggregating about 8,000 feet in length.

Where the Buffalo, New York and Philadelphia road is parallel and forms a second track, the larger trestles, of necessity, when requiring to be rebuilt must be done in both tracks, causing an expense to be jointly borne by both companies. Some difficulty as to reaching an undivided opinion as to the condition and joint renewal has occurred, but at the present time a number of these joint trestles are being rebuilt of pine timber on masonry foundations; they have a strong flooring and are well guard-railed. At Silver Creek, near the station and crossing a street, is a new lattice truss and one span of plate-girder deck, all resting on excellent masonry abutments in the place of a timber trestle. Silver Creek trestle has been entirely renewed in pine timber, and has good masonry foundation. Another trestle near same station, of twenty-five bays, has been rebuilt in same manner. The Angola trestle has been rebuilt in pine timber, resting on masonry piers. There are ten pieces of trestle work from five to twenty-five bays each, which are to be at once rebuilt, and much of the timber is already delivered on the ground. A trestle near Dunkirk and one near Lake View have been filled, besides a portion of others. On the flat lands near Buffalo, where there are a number of flood waterways, piles have been driven to renew them all. A few of the timber openings were

found a little defective, one only seriously, and these were to receive immediate attention.

Ten miles of new steel rails have been laid near Irving, and a large amount of road-bed rebalasted. Nearly all the superstructure is now well ballasted, and the surface and line of track, the entire road, was in admirable order. The renewing of ties has already begun, and with the exception of two or three points the sleepers were in good life.

The station buildings have been painted outside, but some of them were not as cleanly inside as they should be, especially so on this road where but one regular passenger train is run each way.

The roadway is kept in good order, and all fences are in good condition, scarcely a break on the whole line. The property is well maintained in all matters of permanent way, and shows considerable improvement, especially in superstructure, since the last inspection.

#### NEW YORK AND MASSACHUSETTS RAILROAD.

At time of this year's inspection there was no change in the condition of this road from that reported in 1885, but the work of entirely renewing the superstructure with new ties and sixty-seven pounds of steel rail, had commenced. New steel was being delivered and preparations going on to retie, ballast and perfect the track.

A few truss bridges were to be renewed, and some of the ballasting was already completed. More or less of the bridge masonry requires to be rebuilt, which will probably be done this season. The short stringer openings and trestle bridges were each examined, and generally found in good order.

As a whole the road was found in its present state to be in very good order. The fences are well kept up, and a clean roadway prevails. From the amount of work in progress and contemplated this season, another year will undoubtedly show a first-class road in all respects.

#### NEW YORK, ONTARIO AND WESTERN RAILROAD.

A careful inspection of this road, its branches and leased lines, was made this season, and with the exception of two short pieces of the line, passed over after nightfall, each opening and all the depots were examined. There is but little change in its physical condition from that reported in 1885, except in the further renewal of rails with steel on the main line. Since the previous inspection the company have operated the Utica, Clinton and Binghamton, and the Rome and Clinton railroads, formerly operated by the Delaware and Hudson Canal Company. The inspection of the main line began at Cornwall and not at the New Jersey State line as formerly, although operated jointly with the lessees of the West Shore railroad, as these lessees maintain the property between the State line and Cornwall.

Between Cornwall and Middletown is of recent and thorough construction as regards masonry, bridging (both wood and iron), road-bed and station buildings. There has been some trouble with the slopes of cuttings and embankments incident to new work, and the sleepers first used were largely of soft timber, which have been renewed this and last season to the number of 25,000 in twenty-four miles of road. The surface of track was found in quite ordinary condition.

Near Cornwall is a through Howe truss on wooden piers.

Weeds and brush were uncut but fences well kept up. The large renewal of ties has probably occupied the entire track force, and the superstructure will be more thoroughly lined and surfaced later in the season.

The passenger stations are very elaborate, of latest design for such buildings and well furnished. They were found in good condition.

#### *Middletown to Oswego.*

When last inspected there were eighty-five miles of iron rail in superstructure of main line; since then the iron has been entirely removed and replaced with sixty-seven pounds section of steel rail. The whole has long angle-bar fastenings and generally laid alternate joints. As an entirety the rail is in good order, the exceptions being occasional points either on grades or where there is an accumulation of traffic. The renewing of steel has been done to the amount of about twelve miles, the old rail in turn relieving the too much worn light iron on the Delhi branch.

There is a large amount of trestle and pile bridging, including the single bay openings in the road-bed, and a number of Howe and A trusses. These were nearly all carefully inspected, and but a few were found defective in life of material; there is scarcely an opening in the road on main line that has not a good strong flooring, and truss bridges generally have inside T rail guards and large outside timber rib bands. Posts on line of and twenty-five feet distant from ends of trusses of through bridges and having bridge floor extending to same, have been placed at many of the bridges as a protection against contact between a derailed car and end brace of truss. The renewal of timber



work is a constant factor where so much exists, and a number of heavy trestles have been rebuilt this season. A number were found that should be renewed, but all such were being provided for. One short span through Howe truss near Earlville, sixty-five feet span, is a very old structure and the bents are crudely fastened in position. The stream is violent at times of freshet, hence a resort to bents is unsafe. It is suggested that a new bridge be erected and channel freed from obstructions. An A truss west of Earlville has lost one abutment which should be rebuilt. The end of truss is now crudely held in place with timber blocking. A truss bridge at Oneida Community has a defective abutment, and some of the floor beams of a Howe truss ninety feet span, near Durhamville, are too old and should be renewed. The truss is also old but shows no signs of failure. The truss rods of all the Howe bridges have been enlarged to meet increased weight of engines.

Between the crossing of the Erie canal near Durhamville and Oswego there is very little masonry. With the exception of the new Pratt truss over Fish creek, noted in the report on the Elmira, Cortland and Northern railroad, there are no masonry substructures, but very many trestles of one or more bays. Exclusive of the Rome and Clinton and the Randallsville and Utica lines, there are about seven miles of trestle and pile bridges, one mile of wooden trusses and two miles of iron bridging, which does not include single spans, with girders under fifteen feet in length. While this amount of timber work is carefully maintained and closely watched, there is an element of danger by fire that it would be desirable, as far as it can within reason, be reduced, either by filling or substituting iron and stone. The same suggestion is applicable to many other roads in our State. A number of the small wooden openings have been overlooked, and their renewal will undoubtedly be promptly attended to. As a whole the bridges are in excellent condition.

The neglect to cut weeds and underbrush on many portions of the roadway is unfortunate; the fences, however, are well kept up, and a large renewal in barbed wire has been made since the previous inspection. The line and surface of track is in variable condition, owing in part to the life of sleepers and the amount of ballast on road-bed, and partly to the number of section men employed. The greater part of the main line is very workmanlike in track maintenance.

Each of the passenger stations were examined and found in good order, many of them having recently been renovated. The depot at Oswego is now in excellent condition. Oneida and other stations have neatly arranged flower plats, and a tidiness generally prevails at all depots, which must add to the comfort of the public. The same may be said of the passenger equipment. Cars are attached to each passenger train for the exclusive use of ladies and children, they are of new construction and have well upholstered Forney sittings. All passenger cars are kept bright and clean, and the service appears every way unexceptionable.

#### *Ellenville Branch.*

Ellenville Junction to Ellenville, eight miles, laid with iron rails, some of which are considerably worn. The sleepers are not in as good life throughout, as desirable, and superstructure is in corresponding surface and line. In other respects this branch is in good order, and the depots are all neatly kept and comfortably furnished. There are two A truss bridges and a number of small openings, nearly all having good masonry substructures.

#### *Delhi Branch.*

Walton to Delhi, seventeen miles, all iron rail except six miles of steel removed from main line. It was stated that six additional miles would be laid this fall, which will improve the general condition of the iron rail, much of which is considerably worn, and the track was found in quite ordinary line and surface.

A large renewal of sleepers is required; this is particularly necessary because the alignment is almost a continuous series of curves. The weeds and grass should be removed from the road-bed.

There is about one-half mile of trestle work and one A truss bridge, besides many short openings. These are all in fair condition, and some of them have been renewed this year.

Hamden and Delhi have good passenger stations.

#### *New Berlin Branch.*

From the Junction near Sidney to New Berlin, twenty-two miles. As a whole this branch is in very poor condition—at least 600 new sleepers per mile are wanted to bring them up to a proper degree of strength. The rail is iron, about forty-five pounds per yard in weight, and is very much worn; in fact, too much so for a speed exceeding fifteen miles per hour. Grass covers the road-bed at intervals, and occasionally for a number of continuous miles.

There is very little ballast, and the ditches in cuttings are not properly opened.

The openings are well kept up, and generally have a good flooring. There is an iron viaduct near the Junction, and three A truss bridges, two of which have two spans of about sixty feet each. One of the trusses has an abutment which is seriously undermined, and should be rebuilt.

The passenger depôts are frame buildings, with one waiting room, all having a freight room attached. These were found in good order, and, with one exception, cleanly and sufficiently furnished.

The general manager, who accompanied your inspector, gave assurance that he would at once increase the track force and better the condition of this branch before the close of the season.

#### *Utica Branch.*

From Randallville to Utica, a distance of thirty-one miles, all laid with steel rail and angle-bar fastenings. There is one iron truss over Erie canal at Utica; nine Howe trusses, from thirty to one hundred feet span; seven pile and trestle bridges, from three to forty bays of fifteen feet each; and twenty-four short openings in road-bed, from four to eighteen feet span. The iron truss over canal is a pivot swing bridge, pivot out of centre and truss counterpoised. This structure is in good order. The nine Howe trusses have a few too old floor beams, otherwise they are in good condition. The truss rods require to be enlarged for heavy engines. The trestle and pile bridges and short openings are in good order, with a few exceptions, and renewals are to be made this season.

All of the road-way was found clean and orderly, and fencing generally in good repair. Many too old sleepers were noticed, but the ties are closely spaced, averaging 3,000 per mile. The line and surface of the track is in very workmanlike condition.

Each of the stations were examined. At Randallville the passenger accommodations are too limited for the business of this transfer station. Oriskany Falls depot has lately been renovated. The others are as before reported, and all were found in clean order.

#### *Rome Branch.*

From Clinton to Rome, a distance of thirteen miles—iron rails, fish-plate fastenings. This branch is little used, trains are moved at a low rate of speed, and its maintenance is very poor. The work of improving its physical condition has begun, and probably another season will see a better conditioned property. As a whole, the sleepers are too low in life, and the iron rail much worn, and more or less cutting in of short pieces of rail has been resorted to. There is but little ballast on a considerable portion of the road-bed; the ditching is poor in many cuttings, and the line and surface of the track quite ordinary.

At Clark's Mills a new iron truss is about to take the place of a deck Howe bridge. At Westmoreland there are two new plate-girder deck bridges of thirty-five feet span. Near Dix is a forty feet span, deck Howe truss, in good condition, but one abutment requires to be relaid. Most of the masonry, at small openings, is built of local stone, laid dry, and much of it is falling down.

The weeds and brush were found neglected, but the fences were generally in fair condition.

The depot at Clark's Mills has lately been renovated. Kirkland depot is in poor order, and the depot at Rome is the same as last reported. The others are in same order as found in 1885.

NEW YORK, November 28, 1887.

GENTLEMEN—Your favor of November 21st to Thomas P. Fowler, president of this company, inclosing report of the inspector of the Board as to the physical condition of the New York, Ontario and Western railway, as inspected in September, duly received. In reply I beg to say that the recommendations of the Board have already been complied with.

Referring to the Howe truss bridge near Smyrna, would say that I have just closed contract with the Rochester Bridge Company to replace this, with an iron bridge of our standard specifications, which are the same as the West Shore. The abutment of the A truss bridge is now in good condition.

Immediately after the inspection the track force on the New Berlin branch was largely increased, and the entire branch has now been thoroughly overhauled; new ties put in, weeds cut down and ditches opened. At the same time I doubled the track force on the Delhi branch and laid upon it about five miles of steel rails. New ties have also been put in, and the branch is now in fair condition.

On the Rome branch we have an arrangement with the Delaware and Hudson Canal Company, by which they deliver to us steel rail seconds from their main line to replace the iron rails as fast as we call for them, which we do as the rails wear out. Under this arrangement we have recently put down several miles of steel.

We have expended, in improvements to our road and equipment, for the two years ending September 30th last, over \$584,000, and we consider the physical condition of the road very much improved.

A probable typographical error in the inspector's report says our main line is laid with sixty-seven pounds section of steel rail. Nearly all our rails on the main line are fifty-eight pounds to the yard. We have but little sixty-seven pounds, and that is placed on the Cadosia grade.

Yours truly,

J. E. CHILDS,

*General Manager.*

## NEW YORK, RUTLAND AND MONTREAL RAILROAD.

October 13th your inspector made a second inspection of this road during 1886. About May 1, 1887, the property passed to the supervision of other persons, and soon after the new officers and your inspector made a careful examination of the road. Many of the necessary repairs and renewals which were to be made after the October, 1886, inspection have not been made, and the unsatisfactory condition of the road remains, to a great extent, as previously reported. A general outline of the maintenance of the road is as follows: At Chatham a new, small, frame waiting-room has been recently erected. It is probably of sufficient size, and is very well furnished. Crossing Chatham creek is a new pin-connected deck Pratt truss of two spans. The small repair shops are the same as before reported. No machinery is provided, and only light repairs are made. Considerable gravel ballasting has been done where new steel rail is laid, also, more or less gravel has been placed on other portions of road-bed. Where steel rail is laid angle-bar fastenings are used. The next opening is an under farm crossing, lately rebuilt. Bridge No. 2 is an under crossing, and consists of four bays of trestle work; new ties are wanted and a stronger floor. A cattle-guard has badly decayed ties. At Old Chatham the planking around depot is in need of repair. At this point old chair-rail, over worn, was found, and short pieces of rail frequent. Bridge No. 3 has very badly decayed floor beams, and one chord member is in same condition. This bridge should have bents placed under it. It is a low Howe through truss. At Rayville a private building is used for a waiting-room, the old building being abandoned. At time of inspection, shims four inches thick were noticed under chair joints. A cattle-guard and waterway of six feet span had a stringer broken in two. The long trestle bridge at Brainard has been about two-thirds filled. The new material in settling has warped the trestle very much and the completion of the filling is necessary and should be done at once. Brainard has one waiting-room depot in fair order. Bridge 5 is a trestle of six bays, all in good order. Bridge 6 is a seven-bay trestle; a few of the track stringers are too far gone with decay, and should be renewed. Bridge 7 is a through Howe truss of one hundred and twenty feet span, and is in fair order. The floor beams and track stringers have been renewed. A cattle-guard of six feet span has one stringer broken and joint secured with fish-plate at centre of broken stringer. West Lebanon is a flag station and has poor accommodations. Bridge 8 is a new pin-connected Pratt through truss of two spans, and has a good floor system. Following are a number of too old cattle-guards, which should be rebuilt or filled up. An eight feet span waterway has stringers eleven inches square, one of which is one-fourth decayed. A number of miles of new sleepers are delivered for renewals.

Lebanon Center is a flag station. A ten feet span waterway having new floor, and an eight feet span having two old stringers follow. Lebanon has a very clean little depot.

Bridge No. 9 is a good low through Howe truss, but nine of the floor beams are one-third decayed. A ten feet waterway wants a stronger floor. Lebanon Springs depot wants repairs inside, otherwise it is in good condition. The old chair-iron at this point is considerably bent down at ends, but the sleepers are in very good order. Bridge No. 11 is similar to No. 9, but in better condition. Stephentown bridge is now a through Pratt pin-connected truss, and has a standard floor. Stephentown depot has one waiting-room, poorly furnished, but clean. Bridge No. 14 is a short Queen truss, with bent under centre; a new bridge is desirable. Bridge 15 is a through low Howe truss, in good condition. Very many short pieces are cut into the old chair iron at this point. Bridge 16 is a low through Howe truss, twenty-five feet span, resting on bents, and bridges 17 and 19 are similar structures with bents at centres. South Berlin has one waiting room, and is in good order. At this point the chair-rail is badly bent down at ends, and should be relaid with new rail.

The sleepers north of Lebanon Springs are in strong life, and where the road-bed has been reballasted, the track is in fair line and surface. At this point there are a few short openings newly rebuilt. Centre Berlin is a flag station. Bridge 23 is a low truss through Howe bridge, in good condition of trusses, but a few too old floor beams. Then follow a number of short stringer openings in good condition. Berlin has a good depot with one waiting room, all in good order. Bridge 27 is a fifty feet span through low truss, in good order, except a few new floor beams are wanted. Following are a number of trestle and pile bridges, in good condition and well floored. Petersburg is a one waiting room, high platform depot, poorly furnished. Bridge 32 is a low truss Howe bridge in good order. North Petersburg is a flag station. No. 35 is a through Howe truss of two spans, over Hoosick river, in the same good condition as last reported, except the masonry is defective, and the trestle approach at the north end has an open floor. Following is a six-bay pile bridge in good order, but requires a stronger floor.

At Petersburg Junction is the grade crossing of the Fitchburg leased lines. From this point to Vermont State line the rail is steel, and superstructure is in good condition. All of the openings have been rebuilt, and have standard floors.

The foregoing is a fair representation of the physical condition of this property, and from which it will be seen that the renewal of the few miles of old chair iron, the rebuilding or repair of a number of short span bridges, and resurfacing and ballasting of superstructure where needed, would place this road in very good order throughout.

*Supplementary Inspection, Made December 3, 1887.*

May 19, 1887, the regular examination of this property was made. A subsequent inspection by direction of the Board was made on the date first above mentioned. November 23d was the date first named for this inspection, but was twice adjourned with the hopes of having Mr. William Stevenson, president of the company, present, which hopes were not realized owing to other engagements. December 3d Mr. Hopson, superintendent of the road, met your inspector at Petersburg Junction and an examination was made between that point and Chatham or rather Lebanon Springs, as the road south of which point had been looked over a few days previous. The road in New York north of Petersburg Junction was not at this time examined as it is known by your inspector to be in a very fair condition and was recently laid with steel rails, the ties largely renewed and more or less re-ballasted of road-bed. It was unfortunate that snow covered the road-bed and ties when this inspection was made, but sufficient was observed to allow the statement that the openings in road-bed have been secured by renewals and repairs, also by placing bents under some of the truss bridges and renewal of floor beams to at least place them in a safe condition for the present. It is, however, suggested that extra care and vigilance be exercised at all points where trusses are upheld in part by bents that they be not removed by ice or flood-wood until new structures are erected or rods reinforced. Since the examination in May last there has been some renewals of sleepers, but in amount far from sufficient to properly hold track in gauge, especially where there is chair iron, of which twenty-three miles remain, or one-half the distance between Petersburg Junction and Chatham. Considerable ditching of road-bed has been done this past summer and to some extent portions of track have been re-ballasted. There is yet a number of miles of superstructure that should be treated in like manner. Only a few new ties could have been used in renewals this year. Effort has been made by those in charge to provide sound ties for joints of the chair rail, and this has frequently been done by shifting sound intermediate ties to joints of rails. It is now too late (December 6) for further renewals of sleepers this season, but it is not too late to renew the rail, and it is respectfully suggested that the company be advised to at once procure at least two miles of new rails to replace the too much worn chair iron, and from the old rail removed possibly sufficient that will answer for repairs of the balance of chair iron may be obtained to make the whole safe to operate through the present winter. Until this is done a speed of trains exceeding ten miles per hour between stations when upon the chair rail should not be exceeded. Another spring a large renewal of sleepers and a further supply of new rails will be an absolute necessity. Many of the small openings have the rail spiked to the string-pieces, &c., they have open floors, which should also be remedied another season.

As a whole the track is now in better condition than reported last May, but it has not been brought to the maintenance hoped for when that inspection was made. It is but just to say, in behalf of those in charge, that every thing in the way of maintenance points to a judicious use of the material provided, and the road is in as good condition as the circumstances permitted.

The road is operated by the New York, Rutland and Montreal Railroad Company but they have not obtained a title to the property, and an arrangement with Mr. Reynolds, the receiver, permits them to use the road. It is stated to be the intention of the New York, Rutland and Montreal Railroad Company to put the road in first-class condition as soon as they obtain a secure title to the property, but in the interval the immediate repairs above suggested should be made by some one, and that without delay.

## NEW YORK AND NEW ENGLAND RAILROAD.

The inspection of this road made early this season, shows as equally well maintained property as that found in 1885, and reported on page 312 of the first volume of the Commissioners' Report for that year. The double-track pile bridge at Fishkill Landing was considerably disturbed this spring by the action of the ice; at one point it was entirely broken through. New piles were driven and the flooring renewed; a careful and constant surveillance is maintained. A further renewal of timber and increase of piling is suggested. At some points where cross-overs occur there is insufficient support, which should be remedied. As soon as consistent, a permanent way, by filling the pile bridge and protecting the river side with rip-rap or slope wall is desirable. The Howe truss over the tracks of the New York Central and Hudson River railroad, has been replaced with a through Pratt truss pin-connected bridge of one hundred and five feet span having flooring entirely of iron; other than this, there are no changes in bridges or openings. Each of the truss and trestle bridges and the short openings in road-bed were carefully examined and found in good condition in all respects.

The road-bed is well ballasted, neatly defined and generally well drained. The clay cuttings near Stormville were again troublesome this spring, and the slopes have slid more or less, requiring considerable work to remove the sliding material and reopen the ditches.

The sleepers are strongly maintained and the line and surface of track, even at the early period at which the inspection was made, were found in excellent condition. The fences are well kept up, and roadway free from brush and debris, the whole presenting a tidy appearance.

The passenger stations were each inspected, and the same good condition of neatness prevails as last reported.

## NEW YORK AND SEA BEACH RAILROAD.

This road was inspected early in the season of 1886, since which time the only change of moment, is the leasing of the Sea Beach and Brighton, formerly the Bay Ridge and Coney Island railroad. This leased road is elevated on pile and trestle work, and was constructed for double track, and so operated for one season and then abandoned. The New York and Sea Beach operated the road from its junction with the Sea Beach and Brighton road near Mapleton, to the race track, a distance of about one mile.

The work of putting the track of the New York and Sea Beach road in good order for the summer business was in progress. New ties were being placed in road, ditches opened, and the track resurfaced and lined. Some of the rail is much worn and splintered, and should be renewed. The ties are generally in good life, and track well ballasted.

No fences are used, the farmers cultivating the land as closely to the rails as possible.

The pile and draw bridges over Coney Island creek are in good order and well floored; the approaches from adjoining embankments, however, are too narrow, and should be more thoroughly shouldered out.

The property may be reported as in about the same degree of maintenance as given in the report of 1886.

*Sea Beach and Brighton Division.*

This is a road elevated on timber work. Its construction is of trestle work and piling, about equally divided. One track has been removed, and the trestle at west end lowered to form a junction with the leasing road.

A careful inspection was made of this road, and thus far the timber has not deteriorated to a degree to cause apprehension of danger. There are two Howe trusses, one over the Prospect Park and Coney Island railroad, and the other over a highway. There are three truss structures for double track, which rest on timber-bent abutments. The manner of chord splicing in these trusses is objectionable to say the least, and they have elongated sufficiently to lower the camber below a horizontal line.

It is suggested that before using another year they be thoroughly overhauled and a proper plane restored. Their trusses are too shallow for the length of panels; they are not well proportioned, or so arranged as to secure the greatest strength. Very soon the entire elevated structure will have to be renewed in its foundation, much of the piling being of spruce timber.

## NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD.

(Lessee, Unionville and Water Gap Railroad Company.)

The condition of this road is about the same as reported in 1885. It has been maintained sufficiently well as not to deteriorate, nor have the renewals been sufficient up to time of inspection this year, to warrant the statement that it is a better conditioned road. The report of 1885 would be a fair representation of its present condition.

No renewal of rail has been made to any extent, and the condition of the sleepers remain about the same as before. A little has been done towards ballasting the superstructure, but until new rail is furnished, ditches opened and line surfaced, there can be little change.

The two short spans through Howe trusses have new floors, and the truss rods have been enlarged. Some rolled beams are delivered to replace wooden girders, but the openings generally remain as before. The trestle approach to bridge over the Erie tracks is nearly filled, and masonry abutments are proposed this year.

The weeds were cut last fall, but the fencing has received but little attention.

Should the work of repair and renewal be carried out this season as now proposed, another year would see a much improved road.

(For report of New York, Woodhaven and Rockaway, see p. 179.)

## NORTHERN ADIRONDACK RAILROAD.

On page 317 of the first volume of the Commissioners' Report for 1885 may be found the result of the previous examination of this property. There has been much added to the mileage, by the construction of a road penetrating the Adirondack wilderness from St. Regis Falls to Paul Smith's station, a distance of twenty-two miles, making a total of thirty-four miles of railroad.

The track, laid with fifty-six and sixty pounds steel rail, is well tied, and generally the line and surface is in a workmanlike condition, and the abrupt curves are strongly rail-braced. The road-bed is fairly ballasted, but greater attention to drainage is necessary. Between Moira and St. Regis Falls, where an agricultural district is traversed, the road is well fenced. South of the Falls only timber lands are passed through, and fencing is as yet unnecessary. The roadway is exceedingly neat and orderly, and brush cut entirely away between the fences.

Each of the openings in road-bed were carefully examined. Some of the trestle work has been partly filled, and more filling is proposed to be done this year. There are thirty-one openings in road-bed from one span of six feet to ninety bays of ten feet each, aggregating about nineteen hundred feet in length. All of these were found in

good order, and each has a well constructed floor system. There is one deck Howe truss of eighty feet span, two spans of low through Howe truss, of about sixty feet each, and a through Queen truss. These trusses are in good life of timber, and their ability to uphold the stresses imposed is known to the Board through the strain sheets of trusses furnished by the company.

Two new engines, of forty-five tons weight, have been purchased this season, and are in daily use.

The extension is very well built. Timber enters wholly into its construction, and is used for box culverts, under embankments, as well as for abutments.

The station buildings were each inspected and found to be well maintained and cleanly. At the southerly end of line, Paul Smith's station, there is a hotel and depot combined.

### OGDENSBURGH AND LAKE CHAMPLAIN RAILROAD.

(Central Vermont Railroad, Lessees.)

The last inspection of this railroad, and one of great detail, was made in June, 1885, since which time there has been very little, if any, change in the outline of the property.

Three and one-half miles of steel has been added, leaving about the same length of iron rail, which is in very poor order, and it was stated that it would be renewed in steel this season. The recent laid steel has angle-bar fastenings, and all have suspended opposite joints.

Generally the roadway is in orderly condition, the weeds and brush cut the full width of roadway, and old debris removed or burned. The fences are well kept up; only occasionally were fractures noticed. Some reballasting of superstructure in a limited way has been done, but the drainage of road-bed was found imperfect in many cuttings. This item of maintenance is not in as good condition as last reported, and the same is too evident in the present condition of sleepers—they have been allowed to depreciate too far in life. Fifty-six thousand ties were to be used this year in renewals, which if accomplished may raise the whole to a proper strength for this year, but the volume of renewals will require to be increased next season. Mostly hemlock ties are used, and the present amount furnished will only provide a renewal once in eight years, which is a much longer period than hemlock will remain in good life, when in contact with earthy material. The reballasting of road-bed is another item of track maintenance much needed on a greater part of this road. Four and five continuous miles have very little gravel under the superstructure. Originally sub-sills were used, many of which are yet in the road-bed.

It is suggested that these items of maintenance receive more attention another season, which if done will permit of a better and more workmanlike surface and line of track than now prevails. A few sections where the ballast was more plentiful, the ties in better life, and the drainage of road-bed more perfect, the adjustment of track was quite unexceptionable.

In the matter of truss bridging, the spanning of short openings and condition of masonry substructures, these are some betterments and some depreciations as compared with the last examination. The Board is respectfully referred to the field notes on file for a full and detailed statement of these items of maintenance. As regards the masonry, all of heavy construction, such as piers and abutments of trussed spans, their character and condition is of the best.

At some of these structures, exceptions must be made, and in these exceptions will be included masonry of less moment but equally as objectionable.

Near Ogdensburgh is a fifteen feet span opening with one abutment, badly shaken by frost and train concussion. West of Madrid is a ten feet opening with an abutment falling; it is now shored up. Over Grasse river are six spans of straining beam trusses. The late built intermediate piers have settled, and shims are used between the straining beams and chord members, or in reality track stringers. Both the masonry and the adjustment of trusses need attention. There was here a one hundred and twenty feet span originally. It is suggested that a truss, spanning all the necessary waterways, be again constructed and the piers removed. Near Norwood are a few short openings, which have abutments in poor order. East of Knapps' is a ten feet span waterway having abutments leaning quite too much inwardly for safety. There appears to be a number of openings in road-bed that could be readily filled up, and a box culvert or iron pipe used for passage of water. Between Malone and Burke are a number of small openings in which the masonry is leaning inward or bulging, and should be relaid. A double box culvert, west of Cherubusco, is too small and was damaged by last spring's freshet. It is under a high embankment. East of same station is a twelve feet span waterway having an abutment in a very unsound condition. It is shored up, however. At Ellensburgh, over English river, is a straining beam and spur braced truss, one pier of which is broken and held in place by iron clamps. This bridge should be thoroughly overhauled, or better, a new bridge of two spans substituted. East of Altona are a few minor openings with poor masonry abutments which should be rebuilt. East of Moores Junction quite a number of openings have very poor masonry, which should be relaid. Of the bridges and stringer girders, some have been rebuilt, others placed on bents, and the whole are in safe condition, but not of as good and permanent construction as desirable. A Queen truss near a mill has badly decayed ends of braces, and many of the



small openings have plank ties which are inadequate to uphold a derailed truck; a few open floors still remain. It is suggested that all openings have six inch thickness of ties, and have a good sized guard-rail, well secured to the sleepers. The pile bridge at Rouses Point, extending to the channel of Lake Champlain, is not in as good order as last reported; many points were noticed where the ties were bunched, there being no spacing ribband to hold them in place, and the general life of timber in bents and stringers is lower than found in 1885. Over Raquette river, where was a Burr truss, is now two one hundred and twenty-eight feet spans of deck riveted lattice bridging, and one or two spans of truss work have been renewed since the last inspection.

Each of the depots were examined and no particular change noted. They were all found neatly kept and generally well maintained. As regards alignment, gradients, and road-bed, this road is of the best construction.

#### PROSPECT PARK AND CONEY ISLAND RAILROAD — (Steam Division).

From West Brighton Beach, Coney Island, to Ninth avenue and Twentieth street, Brooklyn, a distance of five and one-half miles. As stated in the Report of 1883, from Brooklyn the road follows the center of Gravesend avenue, until at the south end the salt marsh is reached; thence across the marsh to Surf avenue, Coney Island.

The line is now all double track and is laid with steel rails, strongly tied, and is well surfaced and lined. A slight raising of the superstructure in center of avenue, has aided much in the maintenance of track adjustment.

There is but one opening, which is a pile trestle over Coney Island creek, now in strong life and well floored.

Where the avenue is intersected by cross streets, caution signs are provided. Changes have been made in the yard tracks at Coney Island, the better to receive and despatch trains, which are run almost continuously during the summer months.

The larger passenger station at Coney Island is in the same excellent condition as before reported, and the long platforms are well maintained. The repair shops for cars and engines, and the car storage house, have been improved.

The company has refitted and repainted thirty-nine open cars, and purchased one locomotive this year.

The way stations are platforms, which were being overhauled at time of inspection. At the race track of the Brooklyn Jockey Club, a long double track siding entering the inclosure, has been laid. The Brooklyn terminus and train shed are the same as before reported. This terminal is conveniently arranged with gates and waiting rooms for the speedy loading and unloading of passengers, thousands of whom patronize this line to the sea shore during the summer months.

#### *Coney Island Point Branch.*

The passenger station of the main line is located directly opposite the iron pier at Coney Island. At times steamers cannot land at this pier, to overcome which a branch line of railroad two and-half miles in length, to the west end or extreme point of Coney Island, was built, and where steamers may always effect a landing. A good covered dock, and the usual fences and gates for handling large crowds of people are provided.

The branch road is in good order except its sleepers, which were found badly eaten by the dry beach sand. Renewals are to be made before the opening of the season. The property as a whole is in excellent order, and seems competent to handle safely the great numbers who use it as a means of transit to Coney Island. If it were possible to have it so, a good guard fence each side of the double track in Gravesend avenue would add much to the security of trains.

#### ROME, WATERTOWN AND OGDENSBURGH RAILROAD.

Since the last inspection of the Utica and Black River railroad, made in 1885, its property has been leased to the Rome, Watertown and Ogdensburgh Railroad Company, who now operate it under the name of the

#### *Eastern Division.*

A careful inspection was made of this division and its branches. Commencing at Utica, each opening in road-bed was examined as far as Ogdensburgh, occupying nearly three days. No changes of moment have been made, and the property is in about the same, certainly no better condition, than when last examined. In some items of maintenance, such as the life of sleepers, the drainage of road-bed and the adjustment of superstructure, a slight depreciation is perceptible. In a few matters, however, there is some improvement. It was stated that thirty-five thousand new ties were yet to be placed under the rails, this year, but with this addition, as a whole the sleepers will not average the same degree of strength before noted, and it is suggested that the volume of renewals be largely increased another year. A few point switches

have been placed in track, but the stub switch rail greatly predominates. The entire division is laid with steel rail, except between Watertown and Sackett's Harbor, between Theresa Junction and Clayton, and between Ogdensburgh and Morristown.

Generally the roadway was found neatly kept, but on some portions of the road weeds and brush were neglected. The force on track repairs has been light this year, as grass between the rails and other neglects of track maintenance testify. At points the surface and line of track is quite ordinary, while some sections were in these respects very workmanlike. A number of warning signs at highways are down.

The fencing on the older part of road needs considerable renewal. North of Lowville, as a whole, it is in good order.

Between Utica and Ogdensburgh there are about three hundred openings in the road-bed, from four to twenty feet in width; thirty trestle bridges from two to seven bays, averaging nine feet each; two Queen trusses of about forty feet span, and seven plate-girder and iron truss bridges, from thirty to 100 feet span. Nearly all of these were carefully examined. Many of the short single span openings were found in poor life of timber, and the masonry of quite a number is broken and falling inward. Of the trestles, a few have decayed posts and sills where in contact with ground. The floor beams of the Whipple iron bridges have generally been reinforced, and a new plate-girder has been erected over the Black River canal near Boonville. A nineteen feet span having auxiliary truss, all of timber, near Remsen, was found in a very unsatisfactory condition; it was immediately repaired. A twenty-feet span spur-braced opening in the same locality, is in poor order and should be rebuilt. North of Alder Creek is an under farm crossing of three bays. The center bents rest on masonry piers; one of these bents is badly decayed. The deck iron trusses over Sugar river are as before reported; the large span wants adjusting, as do two similar bridges near Utica. Near Martinsburgh is a new low through Pratt truss, in good order except iron wants painting. The flooring of the bridge over ravine, near Lowville, needs to be repaired. A few of the pile openings between Lowville and Deer river should be rebuilt. The iron bridge over Deer river needs some adjusting. The flooring of many of the small openings should be renewed, and guard-rails provided. Between Philadelphia and Theresa there are very many short openings, with masonry abutments. The masonry is built of rough, angular shaped granite, laid dry, and much of it shows the effect of frost and train concussion; some of these abutments should be relaid. At Shurtliff's mines is a forty-feet span Queen truss having some defective timber. At Theresa is a similar structure in good order. Between Theresa and Redwood is an eighteen feet span waterway stringer opening; the stringers are badly decayed; two bents aid in their support of load, and there is a sixteen feet span in same condition. These openings should be newly timbered. Near Redwood are two cattle-passes having very poor masonry. North of Redwood is a new forty feet span iron truss in good order. One abutment of an under farm-crossing has fallen down and a cribbing of ties substituted. Will probably be rebuilt this season. North of Rossie is an eight feet span cattle-pass, very badly decayed. A number of double cattle-passes in same locality have very old stringers. Between Morristown and Ogdensburgh are a large number of small openings. Generally these have recently been renewed, but quite a number are as yet in very poor life. Many of these have been in the road nine years; all such are of hemlock timber which is largely used for all openings on this division; yellow pine timber has been ordered, and probably this fall stringers showing too great age, or other defects, will be renewed.

The way stations are very nearly as reported in 1885. The Lowville depot has been thoroughly overhauled and enlarged. Boonville has very poor accommodations, and the depot at Carthage is too contracted. At Ogdensburgh the depot of the Rome, Watertown and Ogdensburgh railroad is used, and is a well kept, commodious station.

#### *Clayton and Theresa Branch.*

There is very little change in the maintenance of this branch road. The iron rail is somewhat worn, but is in fair order. As a whole the sleepers are in good life, and superstructure in fair adjustment. The roadway is very well kept and fences well maintained.

There are forty-one openings in road-bed, two of which are girder rod trusses of twenty feet span, and have good quality of masonry abutments, laid in cement. Near Clayton, where was an arch culvert, is now a trestle bridge forty feet in height and one hundred and fifty feet long. The soil has been washed out forming a deep ravine. There are forty other openings in road-bed, from four to seventeen feet span, having masonry abutments laid dry, which are more or less yielding to the action of frost and jarring of trains. The hemlock timber stringers are in variable condition, and some of them should be at once renewed.

The station buildings are in good order, having lately been renovated and newly painted.

#### *Carthage, Watertown and Sackett's Harbor Branch.*

This branch is laid with steel between Carthage and Watertown, and with iron west of Watertown. The iron rail is yet in very fair condition. Few trains are run over it and these at a moderate speed.



The three span through Whipple bridge west of Canthage is in fair order. The piers have settled considerably, and are held in position by a cribbing of timber from bottom of river to surface of water. Iron clamps serve the same purpose above the water, and also hold the masonry at bridge seats. Near Sackett's Harbor is another iron truss in good order. All of the openings in this branch were not examined. Such as were seen have supports at center; others are in good condition. The inspection train did not give opportunity to make as critical inspection of this branch as desirable. Other portions of the Eastern Division were passed over in too much haste. Had time and the pressure of other engagements permitted, a reinspection of these portions of the road would have been made.

The roadway, fences and superstructure are in about the same condition as before reported.

All of the way stations were inspected and no change of moment noticed. At Watertown the station of the Rome, Watertown and Ogdensburgh railroad is used.

### *Middle and Western Divisions.*

(Ogdensburgh to DeKalb Junction.)

This portion of the road is operated entirely as a branch road. Its condition, in many respects, is about the same as reported in 1885. The iron rail has in part been renewed with steel; some of the truss bridges and short openings have been rebuilt, and the renewing of ties has been more thoroughly done. Very much of the road-bed requires ballasting, and the line and surface of track should receive more attention. A number of miles of chair and fish-plate iron rail still remains, which is in very poor condition. The fences and roadway are in fair order, and the station buildings have, to some extent, been renovated.

Each of the openings and bridges were examined, and generally they are in good strong life. The masonry, however, especially when not laid in cement, is at many of the shorter spans in poor condition; some of which should be relaid. Near Ogdensburgh are two spans of low Howe trusses eleven years old and yet in fair life of timber; the truss rods of these spans, as well as those of all other similar trusses, have been reinforced by enlarged truss rods, as advised by the Railroad Commissioners. The next bridge is of like character and two years of age. Near Heuvelton is a forty feet span low Howe truss, newly rebuilt. East of Rensselaer Falls is a through Howe truss of eighty-five feet span, very old and in an unsafe condition. It was a covered bridge but became racked by a wind storm, and the trusses are considerably out of perpendicular. It is one of the oldest, if not the oldest, bridge on the road. The truss rods have been enlarged, but this does not provide for the too old timber. It is suggested that the bridge be rebuilt at once.

There are twenty-three openings beside the truss bridges. They range from single spans of six feet in width, to trestle bridges of fifteen bays of ten feet each. About one-half of them have recently been rebuilt, some of them in yellow pine timber. One trestle of five bays, of ten feet each, approaching the deficient Howe truss before mentioned, is quite too old in life, and its speedy renewal is a necessity. All the openings have a fair floor system; those lately rebuilt are excellent in this respect.

### *Massena Springs to Norwood.*

This is a newly constructed road, thirteen miles in length, lately brought into use. The grades and curvatures are light, the country traversed being slightly rolling; roadway eighty feet in width, fenced with barbed wire.

The road is of excellent construction, grades fully maintained, and wide road-bed thoroughly ballasted.

There are but five single and two double span openings, and a plate girder deck of eighty-nine feet span. All the substructures are of an excellent quality of masonry, and each opening has a strong flooring.

The sleepers are chestnut and oak timber closely spaced, and the line and surface of track of best workmanship. The road is certainly a credit to its constructors.

At Massena Springs no passenger depot has yet been built, its location not having been fully determined. A further extension of the road to Fort Covington is under construction.

### *Norwood to Rome.*

Distance 147 miles. At Norwood the Ogdensburgh and Lake Champlain road is crossed at grade. The road between Norwood and Rome is now all laid with steel rail, having angle bar fastenings and laid alternate suspended joints for the greater part of the distance. The Cook safety switch is in general use on this portion of the road, and on all of the main lines.

Only the truss bridges were examined between Norwood and Watertown. The short openings in road-bed were being all renewed with yellow pine timber, and a good floor system provided for each.

There is very little ballast on road-bed between Watertown and Norwood, and the drainage of cuttings is not thoroughly maintained.

West of Potsdam, crossing Raquette river, are seven spans of low Howe truss, four years old. The next bridge is a forty feet span through Howe truss in good condition, except one strand in upper chord at second panel point, is badly decayed. All the Howe trusses have enlarged truss rods. Another bridge of same span and type as the last, has recently been rebuilt. East of Canton over Grasse river are four fifty feet spans of low Howe trusses in excellent condition. All the small openings between De Kalb Junction and Watertown have this season been renewed in yellow pine timber.

The roadway is very orderly, all brush and weeds removed for entire width. A number of highway signs are wanted, also a few on the De Kalb and Ogdensburg branch.

Over Oswegatchie river are four eighty feet spans of Howe truss which has some, but not seriously, decayed timber and over a highway adjoining is a spur-braced opening which requires new stringers. East of Keene's is a forty feet span Howe truss in good condition. Crossing Indian river is a one hundred and ten feet span Howe truss, eleven years old, with considerable decayed timber in lower chords; a new bridge appears to be necessary. Near Philadelphia is a through Howe truss, of yellow pine timber, in good order. Over Black river, near Watertown, is a one hundred and sixty-seven feet span through pin-connected Pratt truss, where was a Howe bridge when last inspected; the other iron spans at same point are in good order. South of Watertown, nearly all of the small openings as well as truss bridges, were carefully examined.

The track from this point to Rome is in excellent maintenance in all respects, roadway clean and orderly, and fences well kept up.

West of Rice's is an eighteen feet span waterway, with masonry in very poor order; it should be rebuilt. West of Adams Centre are four spans of Howe deck bridge in good condition except the floor beams, which should be renewed. East of Adams is a plate girder deck of three spans, erected since the last inspection. East of Albion are two seventy feet spans of deck Howe truss, thirteen years old. The under chords are decayed to some extent, the trusses retain their camber and position, but a new bridge is desirable. Over Fish creek near Williamstown is a seventy feet span deck Howe truss in fair condition. Another similar structure of sixty-five feet span is in fair life. East of Camden is a sixty feet span Howe truss through, which should be rebuilt, and west of Camden, two eighty feet spans of deck Howe trussing nine years old; this bridge is about sixty feet above bed of stream, and is constructed of yellow pine timber. West of Taberg are seven spans of through Howe low truss, some of the upper chords of which should be renewed, and following is a sixty feet span deck Howe truss, on bents at second panel point. This latter bridge should be rebuilt. The iron truss over Erie canal is in good order, well painted and has a new standard floor. Yellow pine timber and oak ties are delivered to renew all the short stringers, and provide strong floors for each of the openings in road-bed.

The station buildings between Watertown and Rome are nearly in the same condition as before reported. West Camden, Sandy Creek and Mansville have been lately renovated. At Adams Centre, Rice's and Sandy Creek are new station buildings, of good design. Richland Junction has a well maintained depot and transfer platform. The other stations have rather poor accommodations, and as regards their condition some of them should be renovated or rebuilt.

### *Cape Vincent Branch.*

Watertown Junction to Cape Vincent, a distance of twenty-four miles; steel rails with exception of about two miles angle plate fastenings, generally strongly tied, and well surfaced and lined. Stub switches still in use. The iron rail is much worn and a renewal is desirable.

There are a large number of short openings in road-bed, many of which have open floors. Yellow pine timber is provided to renew and properly floor all these.

The fences are in rather poor order, but the roadway is in fair condition.

At Watertown Junction over Black river, are three eighty feet spans of new plate girder deck trusses, where was a wooden bridge when last reported. New Limerick is a fifty feet span low Howe truss, in poor life of timber; a new structure is desirable. Over Chaumont Bay are twelve spans of spur-braced truss, on timber piers resting upon masonry substructures, all in good order. North of Three-Mile Bay is a new forty feet span Howe truss; this is followed by a similar bridge which is much decayed and should be rebuilt.

Each of the station buildings were inspected. A new depot was under construction at Brownville. Limerick, Chaumont and Three-Mile Bay have old dilapidated buildings. Rossie is to have a new depot at once. Cape Vincent's train-house and waiting room are in good order and neatly kept.

### *Syracuse to Richland Junction.*

Distance forty-two miles, all laid with steel rail and angle fastenings. The maintenance of superstructure is medium. The sleepers are generally in good life, much stronger than two years ago. A further renewal, however, is necessary at many points. Owing to want of ballast, a well lined and surfaced track is difficult to maintain. If a good coating of ballast was placed under the superstructure and the short sags taken out, this piece of road would be greatly improved. Point and Cook safety switches are used out of main line. The roadway is very well kept, but the fencing requires large renewals.

Each of the openings in road-bed was carefully examined, several of which require rebuilding of masonry, and some of the timber in short spans should be renewed. The cattle-guards are nearly all filled up. Slats are to be substituted. The truss bridges are generally in good condition. The pivot draw in bridge over Oneida river at Brewerton is in poor order. Near Hastings is a sixty feet span low through Howe truss in poor life of timber. Over Salmon river, near Pulaski, is a three-span deck Howe truss on bent supports, and will be renewed in iron this season. The iron trusses have recently been painted, and all openings have a strong floor system.

The station buildings are as before reported. They were generally found cleanly kept. Liverpool has too contracted passenger accommodations. A larger station is desirable.

#### *Syracuse, Phoenix, and Oswego Branch.*

From Woodward Junction to Broadway station, Fulton, a distance of seventeen miles. This is a new road brought into use since the previous inspection. It has long tangents, easy curves and light grades. Most of the road-bed was graded a number of years ago. There is very little masonry; the short openings and bridges have heavy timber bents for substructure.

The track is laid with fifty-six pounds steel rail, with angle-bar fastenings and alternate suspended joints. Considerable has been done to perfect the surface and line of track, which is now very workmanlike, and the road-bed well drained. The roadway is fenced with barbed wire.

There are about ten openings in road-bed, which include two trestle bridges of twelve and thirty bays, ten feet wide, and two, one hundred and ten feet spans of through Howe truss, with timber substructures. All openings have a strong floor system. The usual caution signs at highways are in place.

At Woodard Junction is a small transfer depot, little used. Phoenix and Fulton have excellent new passenger stations, well furnished.

#### *Pulaski to Suspension Bridge.*

Distance one hundred and seventy-five miles, of which one hundred and five are laid with steel rail, angle bar fastenings and broken suspended joints. A portion of the iron rail is considerably worn, and five miles are to be relaid with steel this season. Generally the ties are in good life. West of Charlotte there is very little ballast, and the line and surface of track is in medium condition. East of Charlotte there is a much better adjusted track.

The fencing is in variable condition, portions of the road having good fences, and on others it is considerably broken. Usually the roadway is cleanly kept, and weeds and brush are cut.

A careful examination was made of all the openings. There are about one hundred and thirty short spans of from four to twenty feet each, mostly having excellent masonry abutments. Some of the small abutments, however, are in poor condition, and should be relaid. Masons were at work rebuilding a few of these.

All openings have a good standard floor. There are eleven trestle bridges from two to forty bays each; many of them new, a few in course of renewal, and some of them are too old in life of timber. These last it is proposed to rebuild. There are twenty-one Howe truss bridges, from thirty to one hundred and ten feet spans each, all in good order and strongly floored; also two iron viaducts, one of four hundred, and the other seven hundred and eighty feet in length, spanning streams in deep ravines. The shorter viaduct has a number of badly decayed ties. These structures are about eighty feet in extreme height. One is an inverted Fink truss, and the other a plate girder deck, all resting on iron piers.

Each of the passenger stations were examined. They have all been recently overhauled, platforms in front of freight rooms renewed, and a bay window for observation of track each way has been added to all. They were found very well furnished and cleanly kept, some of them exceptionally so. At Suspension Bridge the new passenger station of the Central-Hudson is used.

#### *Lewiston Branch.*

From Lewiston Junction to Lewiston, distance nine miles. This piece of road is very little used; one freight train each way daily is the extent of train service. It is in about the same condition as reported in 1885.

#### *Rochester Branch.*

From Windsor Beach to Rochester, a distance of seven miles, all nearly laid with steel rail, angle bar fastenings and broken suspended joints. This was formerly the Rochester and Ontario Belt railroad. At Windsor Beach, on the shore of Lake Ontario, a summer resort has been established. A number of acres of land are laid out in a park, hotel built and long covered platforms provided, making an attractive resort.

The alignment is considerably curved, some of which is very abrupt; on these iron tie rods are used to hold track in gauge. The grades are steep, and road-bed, at points exceedingly narrow, which could be remedied by throwing the track into the hillside.

There are two pile and trestle bridges, the latter being about forty feet high and eighty feet in length, and several short span openings. All of these have a good strong flooring.

At time of inspection the road ended at North St. Paul street, where there is a small temporary station. The road was being extended to Main street, on the opposite side of the Genesee river, and an extensive iron viaduct and truss bridge was in course of erection over the river and ravine. Recently it has been opened to a point near the center of the city.

The superstructure of this branch was found in good condition, fences in good order and entire roadway neatly kept.

(For better setting forth the improvements made since report of inspector, see p. 232.)

#### SCHOHARIE VALLEY RAILROAD.

At page 326 of the first volume of the Commissioners' Report for 1885, may be found the report of the previous inspection of this road. There has since that time been little if any change, and generally the road is not in as good condition as then found. About four miles is laid with steel rail and the remainder, two-thirds of a mile, is iron considerably worn.

There is one plate girder deck bridge of about thirty feet span, and two others of fifteen feet in length, all of which are greatly in want of a coat of oil and lead, as they show considerable rust. The floors of these openings are poor, ties are spaced about fifteen inches in clear, and have no guard-rails or spacing ribbons. An eight feet wooden girder opening has two old stringers which should be renewed, and the masonry relaid. Over Fox creek is a through Howe truss about one hundred span, resting upon masonry abutments. The north abutment has been undermined and has slid into the channel, dropping vertically about four feet. Some attempt to hold the abutment in its present position has been made, but the structure is unsafe, and a new abutment on proper foundation should be at once constructed. At present the north end of bridge is shored up on a light bent and the track approach crudely blocked to a surface. The rail is on track stringers, and a good bridge floor is suggested. The bridge itself appears to be in fair life of timber, and was planned to carry much heavier engines than used on this road. At south end, the track stringer is decayed and split under the rail, causing apprehension of the track spreading. Little attention is paid to the track; grass was found growing rankly between the rails, and weeds and brush entirely neglected.

As a whole the sleepers are in fair life, and line and surface ordinary. The old iron rail is in no better condition than when last inspected.

SCHOHARIE, N. Y., November 25, 1887.

GENTLEMEN—We are in receipt of the report of the inspector as to the physical condition of the Schoharie Valley railroad, and would respectfully state that at present writing material change has been made since September 13, 1887.

The abutment under the Fox Creek bridge has been relaid, the bridge now resting on a good stone abutment. The approach has been graded in a proper manner and all blocking taken out. Also ten ton of steel has been laid and all poor rails replaced by good ones. The iron girders are being painted, new ties put in and guard rails and spacing ribbons put on. New stringers are being put in the Fox Creek bridge, and the entire road is being put in good condition.

Respectfully,

D. B. VROMAN,  
*President, etc.*

#### SOUTHERN CENTRAL RAILROAD—(Main Line).

From North Fair Haven to Pennsylvania State line near Sayre, Pa., a distance of one hundred and fourteen miles. The prediction made at close of report of same road in 1885, has been verified, as the greatly improved physical condition of the property now shows. Since that time there has been a more rapid improvement than on any other road in the State.

With the exception of thirteen miles of iron rail which is in fair order, the main line is now laid with steel rail. The ties throughout have been sufficiently renewed and many miles are entirely new, bringing all up to a very strong life. A heavy coating of good ballast (some of which on south end of line was hauled a long distance), has been placed on the road-bed for nearly its whole length, and all short sags have been taken out of plane of road, a work which, with the new rail and ties, brings the superstructure into excellent condition. North of Weedsport, where the heaviest ballasting has been done, a further adjustment of line of track is necessary, but the surface is unexceptionable. South of Auburn the workmanship of the track maintenance is of the best, and the drainage of road-bed has been well done throughout.

All of the fencing has been thoroughly repaired or rebuilt with five strands of barbed wire, and the roadway is now neat and orderly from fence to fence the whole length, and the brush, weeds and old debris have been entirely removed. Two hundred and twenty thousand new ties have been used since the inspection of 1885.

While so much can truthfully be said of track and road maintenance, it is more gratifying to report to your Honorable Board the present conditions of the openings in road-bed which, when first inspected in 1884, were in deplorable condition, to say the least. These have all been rebuilt, or so thoroughly repaired, as to place them in good condition.

At this time there are about sixty pile bridges or openings from one to fifty-eight bays each; one hundred and fifty-two trestle bridges or openings, from one to thirty spans; one short span Queen truss, and one Howe truss bridge of sixty feet span in road-bed. There are now thirteen iron pin-connected trusses of from one to three spans each, one riveted lattice, and eight plate-girder bridges, and an iron viaduct near Weedsport; all excepting the viaduct having been erected since 1884, and several of them within the last two years.

Each of the openings of every description was inspected this season, and they were found with hardly an exception to be sufficient in strength, and all well floored.

All of the stations were examined and found in about the same condition as reported in 1885; some of them have been renovated. They were all cleanly kept, and a few only in need of repairs.

#### *Ithaca, Auburn and Western Branch.*

From Auburn to Freeville, a distance of thirty-eight miles, laid with iron rail. This branch is very little used, one mixed train each way daily constitutes the service, and at a low rate of speed.

The superstructure is in ordinary line and surface, owing in part to the want of ballast. Care is taken with the roadway and fences, and the sleepers are as a whole in reasonably good order, but a larger renewal at south end of road is desirable another year.

There are forty-one trestle bridges and openings, from single spans of four feet to trestles of thirty bays each, aggregating a length of about 1,600 feet, one Queen truss of thirty feet span and a plate-girder deck viaduct 420 feet in length, and sixty feet high at extreme point. Each of these were examined, and with the exception of some too old posts at ground line, they were found in good order.

The way stations are generally used for business purposes in connection with railroad service, but each have a comfortable waiting-room.

Probably this branch is sufficiently well maintained and operated to accommodate all the business of the section it traverses.

(For Sea View Elevated Railway, see p. 179.)

#### STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD.

This three feet gauge railroad, extending from Phoenicia to Hunter, a distance of fourteen and one half miles, was last inspected in 1885. It was then a well maintained property, and the present inspection found it in equally as good order. Improvement have been made in some of the openings; a few of what were trestle bridges have been renewed by erecting masonry abutments laid in cement. Nearly all the masonry at short openings is composed of thin flat stone, laid dry, and some of these are in poor order. It is suggested that, as rapidly as possible, these defective abutments be replaced with a better character of work. The truss bridge at Phoenicia and Chichesters, and the two spans of Queen truss between these points, are in good condition. Near Edgewood are six bays of trestle bridge which are to be rebuilt this season. The abutments and piers are already completed, and truss bridging is to be erected.

Some of the narrow embankments have been widened, the ditches of road-bed well opened and the adjustment of track further perfected, since last inspection. Five thousand ties will be used this season in renewals. There are no changes in depot buildings, and thus far no depots are provided at way stations. Generally the permanent way is well maintained. Care is taken to keep the passenger equipment in good order.

#### SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD.

Operated by the officers of the Delaware, Lackawanna and Western railroad, but distinct in operation and is not a leased line. The last inspection of this property was made in 1885, since which no changes have been made in its outline. The most extensive betterment has been the construction of a double track, deck bridge over the Chenango river near Binghamton, consisting of four spans of pin-connected, three-truss Pratt iron bridge of one hundred and thirty-five feet spans each. Other than this there have been no renewals of trusses on the road. Each opening was carefully examined. At the east leg of Y, in Binghamton, is a low Howe through truss, forty feet in length and ten years old, which is apparently in good life. North of Whitney Point is a sixty feet span plate-girder deck with bent underneath at center—too shallow for the span and thickness of girder plate and flanges. Also a forty feet span, low through Howe truss in fair life of timber and has enlarged truss rods. North of Lisle is a sixty-one feet span plate-girder deck in condition similar to the former girder. Also one of same type thirty, and one of twenty feet spans of sufficient strength. The next bridge is a sixty feet through low Howe truss built in 1878. It is in fair life and has enlarged truss rods, as have all the wooden bridges between Binghamton and Oswego. North of Mar-

ation is a sixty feet span similar to the last one, except its age is too apparent, and it should be renewed. Between Cortland and Homer are two openings of sixty feet each, spanned with three truss riveted lattice bridges—and another like them north of Homer. Also a twenty feet span plate-girder deck. North of Little York is a similar structure of thirty feet span, and north of Preble a forty feet span plate-girder through. South of Syracuse is a forty feet span low Howe through truss over a highway, in good life, and a twenty and thirty feet span plate-girder deck over highways. There are also a number of minor openings spanned with T rails and rolled beams. With the exception of these latter girders all the iron work is very well painted. The small openings spanned with wooden girders were all found in ample volume and strength of timber.

The superstructure presented the same perfect workmanship noted in previous report. There are about thirty miles in all of double track, and the whole is in very creditable order. A few caution signs at highways are wanted. The fencing is of the best maintenance; not a fracture of moment was seen on either side of entire eighty miles.

Each of the depots were inspected and all found in good condition, cleanly kept and well furnished. The Cortland passenger station is very much used, and is to be entirely remodeled this season. At Syracuse the large brick passenger station and general offices is in the same order as stated in last report. The shops were hurriedly looked over, but they were noticed as being very tidily kept, old debris picked up, and everything appeared to progress systematically, the whole promising good work in its various departments.

#### NEW YORK, WOODHAVEN AND ROCKAWAY RAILROAD.

The inspection of the New York, Woodhaven and Rockaway railroad—especially the long pile trestle crossing Jamaica Bay—was carefully made by your inspector May 5, 1887. During the past year the terebo has made considerable havoc with the piling in Broad channel and other deep waters crossed by this bridge.

The structure is double track, and about four and one-half miles in length.

In some of the bents two and three piles have been found entirely eaten off at a point about nine feet below low-water mark. The company have now a pile machine at work, and propose to drive in each bent sufficient crooked piles to uphold the superstructure. About 900 piles have been provided; also several hundred to be driven across the ground not covered at low water. Generally the caps and track stringers are yet in reasonably good life of timber. A few stringers, however, require to be renewed. The company have arranged for an examination of each bent by a submarine inspection, which is very necessary under the circumstances. The rolling stock, all of which is for passenger use, is exceedingly heavy, and each car seats sixty or more passengers. At times 7,000 people cross this long bridge, and daily, during the summer, the passenger traffic is heavy.

Your inspector would respectfully suggest to the Board of Commissioners that the officers in charge of the New York, Woodhaven and Rockaway railroad be advised not to remit in the least their efforts to insure the stability of the bridge crossing Jamaica Bay, both in the piling and track stringers.

#### SEA VIEW ELEVATED RAILWAY.

I have made an inspection of the Sea View Elevated railway, located on Coney Island. The road is about one mile in length, and is extensively used by the public during the warm summer months. There is a considerable portion of the road constructed with wooden columns, much the same as the elevated roads in New York. Where avenues and steam roads are crossed, iron trestles, trusses and pedestals are introduced. A portion of the road, however, is a pile bridge. Of this latter construction there are about 1,200 feet immediately east of Prospect Park and Coney Island railroad, and at the easterly terminus there is about the same length of pile work.

Your inspector made a careful examination of the entire road, and found the same in good condition, except the pile bridging. At the surface of the ground—or beach sand, to be more explicit—the piles are seriously defective—often almost entirely decayed—and all are to a great degree affected in the same manner. The outside shell of these piles is generally unbroken, but inside they are dry-rotted, as before stated. The vertical sway bracing is quite light, and although light motive power is used, yet cars of the usual summer excursion pattern are run with, at times, 100 people in them.

Your inspector respectfully suggests that new piling be substituted, or that the piles be cut off and a proper sub-silling used, and the bents thoroughly braced before the road is further operated.

Board of Railroad Commissioners:

FLATBUSH, N. Y., May 19, 1887,

GENTLEMEN—Referring to yours of the 17th inst. to F. A. Schroeder, President, I have the honor to say that we will take every precaution to make the piling and road safe before we operate it the coming season.

Yours, truly,

J. L. MORROW,  
Superintendent.



# MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTIONS 2 AND 10 OF CHAPTER  
353, LAWS OF 1882.

OCTOBER 5, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

Mr. James Tracey, of counsel of the Albany Railway, was heard in relation to the application for an increase of capital, and filed a stipulation with the Board.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Nelson Burdick, relative to the matter of turning over the failure of the Utica and Black River Railroad Company, to comply with the recommendations of the Board, to the Attorney-General. Ordered filed, and that a copy of the letter be sent to the Utica and Black River, and the Rome, Watertown and Ogdensburg Railroad Companies.

Letter of William R. Strong relative to milk rates. Ordered that copies of the decision in the Harlem, the Newburgh, Dutchess and Connecticut, and the Anglo-Swiss Condensed Milk Company be sent him, and that Secretary write and say that the matter has not been before the Board since these cases were decided, but he is at liberty to present a written complaint to the Board, which will be considered in accordance with its established usage.

Letter of Geo. L. Walton, James Locke and James Davis, relative to car-couplers. Referred to Commissioner Rogers on motion of Commissioner O'Donnell.

Letter of Walter Lloyd Smith, of counsel for Frisbie, Blanchard & Co., asking postponement. Ordered, that the parties be notified that at the request of complainants the matter is postponed until further notice, to be given by the Board to the parties.

Letter of T. S. Coolidge, Glens Falls, Sandy Hill and Fort Edward Railroad Company. Ordered, that hearing be set down for Tuesday, October 12th, at 10 A. M.

Commissioner Rogers offered the following:

WHEREAS, The Albany Railway has applied to this Board for approval of an increase of capital stock; and

WHEREAS, It appears that the Albany Street Railway, since June 26, 1885, has expended or is under contract to expend, the sum of \$4,749.96; and

WHEREAS, Said railroad has filed with this Board a stipulation that it will appropriate from earnings to additions and betterments annually a sum not less than \$5,000, until the cost of road and equipment shall be equal to the par value of all stock and bonds issued by the company; and

WHEREAS, It appears that the sum of \$41,300.47, found by this Board upon a former application to have been the difference between the par value of the stock and bonds of the road outstanding and the amount of cash expended for construction and equipment will, after the increase asked for has been granted, have been reduced by \$9,704.96, and is likely to be further largely reduced by an outstanding assessment for the paving of Washington avenue; therefore,

Resolved, That the application of the Albany Railway, for the approval of this Board for an increase of its stock from \$200,000 to \$275,000, be granted.

At a special meeting of the directors of the Albany Railway, held at their office on the 30th of September, 1886, the following resolution was unanimously adopted:

Resolved, That the board of directors hereby guarantee that in case the Board of Railroad Commissioners approve the application for leave to increase the capital stock of this company, now pending before it, the company will appropriate from earnings to additions and betterments, annually, a sum not less than \$5,000, until the cost of the road and equipment shall equal the par value of all stock and bonds issued by this company.

I hereby certify the foregoing resolution was duly passed by the directors of the Albany Railway, as above set forth.

(Signed)

JAMES H. MANNING,

Secretary.

ALBANY, September 30, 1886.

Commissioner O'Donnell offered the following as an amendment:

WHEREAS, In the matter of the application of the Albany Railway (street), for the approval of the Board, for an increase of capital stock from \$200,000 to \$250,000, which



increase was denied by the Board August 15, 1885, Commissioner Rogers voting for such increase and Commissioners Kernan and O'Donnell in the negative; and

WHEREAS, A new application has been made for an increase of its capital stock from \$200,000 to \$275,000; and

WHEREAS, It appears from the report of the accountant of the Board that since June 26th said road has expended in new construction and betterments \$74,016.31 and contracts now being executed entered into for the same purpose, \$10,733.65; total, \$84,749.96. Therefore,

*Resolved*, That said application be granted.

*Resolved*, That this Board approve the resolution of the railroad company, as contained in a resolution sent this day to the Board, as follows:

"At a special meeting of the directors of the Albany Railroad Company, held September, 1886, the following resolution was unanimously adopted:

"*Resolved*, That the Board of directors hereby guarantee, that in case the Board of Railroad Commissioners approve the application for leave to increase the capital stock of this company, now pending before it, the company will appropriate from earnings to additions and betterments, annually a sum not less than \$5,000, until the cost of the road and equipment shall equal the par value of all stock and bonds issued by this company.

"I hereby certify the foregoing resolution was duly passed by the directors of the Albany Railway, as above set forth.

"ALBANY, September 30, 1886.

"(Signed)

JAMES H. MANNING,  
"Secretary."

Lost—Commissioners Rogers and Kernan, nay; Commissioner O'Donnell, aye. Commissioner O'Donnell moved to amend that the application be granted. Carried. Commissioners Rogers and O'Donnell, aye; Commissioner Kernan, nay.

Commissioner Kernan moved to reconsider the vote by which this amendment was carried. Carried.

The question was then upon the preambles and resolutions offered by Commissioner Rogers, which being put were carried. Ayes—Commissioner Rogers and Kernan; nay—Commissioner O'Donnell.

The Secretary submitted his report; also the report of the accountant, relative to reducing the size of the second volume of the Annual Report. Laid on the table.

Commissioner Kernan submitted a report in the matter of the crossings at Riga and Chili.

Ordered, that the highway commissioners complaining be informed of the agreement of the New York Central and Hudson River Railroad Company, and that they inform the Board, after a reasonable time, whether such agreement has been carried out.

The Board adjourned.

WILLIAM C. HUDSON,  
[Secretary.]

#### OCTOBER 12, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Board heard Robert Armstrong, Jr., for the village with Trustees Prouty and Van Loon, M. A. Sheldon, for the company, and Secretary T. S. Coolidge, in the matter of the committee of trustees of the village of Fort Edward v. The Glens Falls, Sandy Hill and Fort Edward Railroad Company. Ordered, that the company put on a car for thirty days' trial, at such time as the petitioners should suggest.

The Secretary submitted the unfinished business under the rule:

Letter of Kidder M. Scott, relative to the failure of the Buffalo, New York and Philadelphia Railroad Company to comply with the recommendations of the Board in the Mount Morris matter. Ordered, that the company be cited to show cause on October 19, 10 A. M., why the matter should not be reported to the Attorney-General.

Letter of Charles M. Heald (General Traffic Manager Long Island Railroad Company), relative to amended tariff rates on the Long Island Railroad. Ordered filed with the Dr. Franklin papers.

Letter of J. E. Childs (General Manager New York, Ontario and Western Railway Company), relative to the McKelvey crossing at Oneida, Madison county. Ordered sent to complainant.

Letter of E. D. Northup relative to frogs, and accidents occurring thereby. Ordered filed, and that the Secretary write that the Board has recommended blocking so placed in the frogs and between rails, as to prevent accidents of the nature referred to by him and that this is being very generally adopted by the roads of the State.

Letter of Charles Parsons (Rome, Watertown and Ogdensburg Railroad Company), relative to the decision of the Board in the matter of McEwen Brothers v. The Utica and Black River Railroad Company. Ordered, that in view of his request for a reconsideration, the Secretary write and ask whether the Rome, Watertown and Ogdensburg Railroad Company desires a hearing.

Letter of I. F. Maynard (Utica and Black River Railroad Company), relative to decision in matter of McEwen Brothers v. Utica and Black River Railroad Company. Ordered, that in view of the question as to route preferred, Secretary write and ask if a hearing is desired.

Letter of J. D. Layng (West Shore Railway Company), relative to make-up of 7 A. M. train from Kingston. Ordered copy sent to A. Schoenmaker, Jr., with request to make answer to the Board.

Petition of commissioners of highway, town of Pittstown, Rensselaer county, complaining of grade crossing on Troy and Boston Railroad. Ordered usual course.

Letter of John Robertson, highway commissioner town of Riga. Ordered filed.

Letter of Franz T. Wolf, making inquiry as to rule in Massachusetts in matter of freight bills. Ordered copy sent to Massachusetts Commissioners for answer, and when received transmitted to Mr. Wolf with decision of Board in the matter.

Letter of A. H. McLeod (Elmira, Cortland and Northern Railroad), relative to complaint of Bradford Snyder. Ordered copy sent to Mr. Snyder.

Letter of S. D. Coykendall (Kingston City Railroad Company), relative to the Frederick complaint. Ordered filed.

Letter of James A. Ward, relative to the proposed hearing in the Burdick matter. Ordered that the Board change the date of hearing to November 9, 1886.

Commissioner Rogers called up the matter of the Cranston crossing. Referred to Commissioner Rogers to take action.

Commissioner Rogers called up his report in the matter of the Merchants' Association v. Fonda, Johnstown and Gloversville Railroad Company. On the question of adoption all voted aye.

Commissioner Rogers called up his report in the matter of George A. Streeter and Brother v. Fonda, Johnstown and Gloversville Railroad Company. On the question of adoption all voted aye. Both reports ordered issued.

Commissioner O'Donnell moved that a further communication be sent to the Rome, Watertown and Ogdensburgh Railroad Company as lessee of the Utica and Black River Railroad Company, calling attention to their failure to comply with the promise to the Board relative to the planking at Lowville, and ask that immediate action be taken.

Commissioner Kernan submitted complaint of John French v. The Utica and New Hartford Street Railroad Company. Ordered usual course.

The accountant reported the failure of the Buffalo and South-Western Railroad Company to file quarterly report for the quarter ending June 30. Ordered that a citation be issued for October 19, at 10 A. M.

Messrs. William Lounsbury, for the complainant, and S. D. Coykendall and L. F. Stebbins, for the company, appeared and were heard in the matter of Freileweh v. Kingston City Railroad Company. Set down for summing up on the 19th inst.

Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

#### OCTOBER 19, 1886.

The Board met pursuant to rule. Present — Commissioners Kernan and Rogers.

The minutes were read and approved.

The Secretary submitted the unfinished business under the rule:

Telegram, jointly from S. D. Coykendall and William Lounsbury, asking postponement of the summing up of Freileweh v. Kingston City Railroad Company. Granted and set down for November 9, 1886.

Letter of James I. Scollard, (Utica, Clinton and Binghamton Railroad Company), relative to the complaint of John French. Filed.

Letter of James Barnes, secretary and treasurer (Central City Railway Company), inquiring if under chapter 483, Laws of 1859, the company is not exempt from making annual and quarterly reports. Ordered, that the Secretary write that chapter 483, Laws of 1859, clearly exempts the company from making the annual report required by section 31, chapter 140, Laws of 1850, but this Board has a right, in its judgment, to require such annual and quarterly reports under section 7, chapter 353, Laws of 1882, and that sufficient reasons have not been presented to the Board why an exception should be made to its general rule of requiring reports from all companies. It can see no reason why such reports should not be required as heretofore.

Letter of Franklin D. Locke, in answer to citation of Buffalo, New York and Philadelphia Railroad Company, (Mount Morris case). Ordered that copy be sent to Mr. Scott, with letter that Board is ready to turn the matter over to the Attorney-General, if in his judgment such course should be pursued; if on the other hand, in his judgment it were better to wait and see if the relief desired cannot be obtained under the reorganization, the matter will be postponed as requested.

Letter of Daniel Robinson (Troy and Boston Railroad Company), relative to Pittstown crossing. Ordered, usual course.

Letter of William H. Craft, clerk Massachusetts Railroad Commission. Ordered filed

Letter of Senator E. C. Walker, relative to an alleged dangerous crossing in Batavia

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Ordered that synopsis be sent to the New York, Lake Erie and Western Railroad Company, and Mr. Walker informed of the fact.

Letter of C. M. Depew, in answer to complaint of Mann Boudoir Car Company. Usual course.

Letter of J. D. Layng (West Shore Railway Company), relative to Cranston's crossing. Ordered copy sent to A. Pell.

Letter of Sam. M. Smith, relative to the refusal of the Ninth Avenue Street Railroad Company to give him list of stockholders. Ordered, that the Board knows of no provision other than section 5, chapter 140, Laws of 1860, under which a stockholder can demand access to the books, and then at an annual meeting, by a vote of a majority of the stockholders. But, under the act of its creation, chapter 363, Laws of 1862, this Board has power to investigate and examine the books of corporations when it deems it proper to do so, but the practice of the Board is to undertake such examination and investigation only when complaint is made by those interested in the company, alleging that the Annual or Quarterly Reports filed with the Board were defective and erroneous. The only way that stockholders as such can compel corporations to open their books and papers, is by action in the courts, alleging the facts which entitle them to inspection.

Commissioner Rogers called up for consideration the reports of the accountant and secretary on the reduction of the size of the Annual Report of the Board.

Ordered, that non-operating companies be not published in detail and the tabulation continued, and that the president's name and office address be included in the tabulation.

Ordered, that only so much of the Quarterly Reports for the four quarters of the current year be published as is embraced in "gross earnings" and "net income from all sources," inclusive.

Ordered, that the "history of organization" be not published, except in the case of new companies, but that reference be made to the fact of their publication in previous reports.

Ordered, that "capital stock outstanding" and "funded debt per mile of road owned," etc., be omitted from publication.

Ordered, that of "traffic and mileage statistics," "eastward and westward," or "northward and southward bound" be omitted; also so much as is embraced within "average speed of," etc., and "average number of miles each ton freight," inclusive; also "average number of cars," etc., (see Table F, page 19).

Ordered, that of "miscellaneous statistics," all from and including "stations, freight and including "aggregate area of cattle yard," be omitted.

Ordered, that "character of service" (Table H, page 31), be omitted, but that "average number of persons employed" be retained.

Ordered, that the names of officers and directors be run in, instead of being set in double columns.

Ordered, that so much of the first volume of 1885, as is embraced within pages 408 to and inclusive of 445, be omitted.

Ordered, that "history of organization" of street roads be omitted, except in case of new companies, but reference made of their appearance in prior volumes.

Ordered, that from street reports, "salaries and wages of officers and other employees" (Table F, page 19), be omitted.

The Board adjourned.

WILLIAM C. HUDSON,  
Secretary.

OCTOBER 23, 1886.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule:

Letter of Bradford Snyder, relative to his fence on line of Elmira, Cortland and Northern Railroad. Ordered, that the Secretary write and say that the Board are informed that the fence complained of has not yet been repaired.

Letter of McEwen Brothers, relative to failure of Rome, Watertown and Ogdensburg Railroad Company to comply with recommendation of Board. Ordered, that Secretary write and say that the road has asked for a reconsideration, and that the Board answered by asking if a hearing was desired; that now the Secretary is instructed to inquire whether the road desires to present any facts or arguments as a reason for reconsideration.

Letter of William Lounsberry, relative to complaint against the Kingston City Railroad Company. Ordered filed.

Letter of A. Steber, relative to complaint against the New York, Ontario and Western Railway Company. Ordered filed and case closed.

Letter of John French, relative to his complaint against the Utica, Clinton and Binghamton Railroad Company. Ordered filed.

Letter of F. A. Potts, New York, Susquehanna and Western Railroad Company, relative to Anglo-Swiss Condensed Milk Company. Laid on table.

Letter of Theodore Voorhees, relative to Troy Union Depot. Ordered filed.

Commissioner Kernan submitted a report in the case of C. C. Overton v. Coney Island Railroad Company. Ordered laid on table and printed.

## NEW BUSINESS.

Letter of Samuel Sloan, President of the Utica, Chenango and Susquehanna Railroad Company, application for increase of capital. Ordered, that Secretary designate paper in which to publish notice of meeting of stockholders.

Complaint of citizens of Brooklyn v. Brooklyn City Railroad Company. Ordered; usual course.

Complaint of citizens of Rushford v. Tonawanda Valley and Cuba Railroad Company. Ordered usual course.

Ordered that two hundred extra copies of the Annual Report blanks be printed.

The Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

OCTOBER 26, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule as follows:

Letter of F. D. Mather alleging excessive rates on Rome, Watertown and Ogdensburg Railroad. Ordered that the Secretary write and say that the Board does not understand his statement of rates. If he desires the Board to act he should make his complaint more specific and attach his freight bills.

Letter of Charles Smith (McKelvey crossing), complaint against the New York, Ontario and Western Railway Company. Referred to Commissioner Kernan.

Letter of Kidder M. Scott, relative to Mount Morris citation. Hearing on citation set down for November 9.

Letter of John Robertson, relative to crossing on New York Central Railroad, town of Riga. Ordered that Secretary write Mr. Toucey and ask why he has failed to fulfill the promise made to Commissioner Kernan (made by both Mr. Toucey and Mr. Voorhees,) to immediately place a flagman at the crossing a mile or two west of Chili station, and that an immediate answer be required.

Letter of Bradford Snyder, relative to the fences on line of Elmira, Cortland and Northern Railroad. Ordered that Secretary write and ask if fences are repaired or not, and if not, will he state wherein they are defective now.

Letter of Thomas C. Purdy, relative to complaint of Mann Boudoir Car Co. v. New York Central Railroad Company.

Commissioner O'Donnell moved that Secretary write and say that the Board understands from the communication of Mr. Depew that the refusal or neglect was a mistake which will not occur again; that hereafter cars will be hauled at reasonable rates upon proper application therefore; should any refusal occur hereafter, the Board would entertain a complaint.

Letter of James Barnes, Central City Railway Company, relative to making annual and quarterly reports. Ordered filed.

The Secretary submitted a report, being a computation of reduction of size of the Annual Report and saving in expense effected, by action of Board on 19th instant.

Commissioner O'Donnell moved to amend the minutes of the 19th instant so that the reports of the accountant and Secretary relative to the reduction of the Annual Report of the Board to the Legislature, shall appear in full on the minutes.

Commissioner Kernan moved to amend by striking out the words "shall appear in full on the minutes," and insert in lieu thereof "shall be filed as part of the records of the Board."

Commissioner Rogers moved to substitute in lieu these words, "shall take the usual course and be filed as a part of the records."

Commissioner Kernan accepted the amendment of Commissioner Rogers.

The question was on the amendment. Carried—ayes, Commissioners Rogers and Kernan; nays, Commissioner O'Donnell.

On the question of the resolution of Commissioner O'Donnell, as amended, the vote was—ayes, Commissioners Rogers and Kernan; nays, Commissioner O'Donnell. Carried. Commissioner O'Donnell offered the following preambles and resolution:

WHEREAS, The reports were made to this Board by the Secretary and accountant, and

WHEREAS, Important action has been taken by the Board, based upon such reports, omitting important items, to-wit, among others, many from the Quarterly Reports made by the railroads of the State to the Board, therefore

Resolved, That such reports be entered upon the minutes of this meeting.

Lost. Aye—Commissioner O'Donnell; nays—Commissioners Rogers and Kernan.

Commissioner O'Donnell moved to reconsider the vote by which the order of the Board of October 19th, was made as follows: "That only so much of the Quarterly Reports for the four quarters of the current year be published as is embraced in 'gross earnings' and 'net income from all sources,' inclusive."

Lost. Aye—Commissioner O'Donnell; nays—Commissioners Rogers and Kernan.

Commissioner O'Donnell moved to reconsider the vote by which order of the Board of October 19th. was made as follows: "That from street railroad reports 'salaries or wages of officers and other employees' be omitted, and that it be printed."

Commissioner Rogers moved to amend by striking out all after the word "that" and insert the following:

"WHEREAS, It is desirable to shorten the Annual Report of this Board as much as possible by omitting therefrom, in order to save expense, unnecessary information and by printing as closely as possible to save space.

*Resolved*, That the 'salaries and wages of officers and other employees' (Table F, p. 19), be 'run in' or printed closely as possible; and that the same course with reference to close printing be adopted wherever practicable.

Commissioner O'Donnell moved to amend by striking out "run in or."

Commissioner Rogers accepted the amendment.

Commissioner O'Donnell accepted the amendment of Commissioner Rogers, and, as amended, the original motion was adopted.

Commissioner O'Donnell offered the following:

WHEREAS, It appears by the report of the Secretary of this Board, filed this day by order of the Board, that without omitting any statistics, tables, or other important information, heretofore made to the Legislature by the State Engineer, and for the past four years by this Board to the Legislature, that the Annual Report will be reduced 350 pages; therefore,

*Resolved*, That the plan recommended by the Secretary for the forthcoming Annual Report be adopted by the Board.

Lost. Aye—Commissioner O'Donnell; nays—Commissioners Rogers and Kernan.

Commissioner Rogers offered the following:

WHEREAS, The reports from the accountant and Secretary, with reference to curtailing the Annual Report of the Board to the Legislature, are on file in this office open to inspection; and

WHEREAS, These reports are recited in full in a resolution offered by Commissioner O'Donnell, now on the minutes, thus unnecessarily loading up the same,

*Resolved*, That the recital of such reports be stricken from the minutes.

Carried. Ayes—Commissioners Rogers and Kernan; nays—Commissioner O'Donnell.

Commissioner O'Donnell moved to reconsider the vote by which the orders of the Board of October 19 was made, as follows: "That non-operating companies be not published in detail, and that the president's name and office address be included in the tabulation; that the history of organization be not published, except in the case of new companies, but that reference be made to the fact of their publication in previous reports; that 'capital stock outstanding' and 'funded debt outstanding,' 'per mile of road owned,' etc., be omitted; that of traffic and mileage statistics 'eastward and westward,' and 'southward and northward' bound, be omitted; also so much as is embraced within 'average speed,' etc., and 'average number of miles each ton freight,' inclusive, also 'average number cars,' etc. (see Table F, p. 19); that of 'miscellaneous statistics,' all from and including 'stations, freight,' to and including 'aggregate area of cattle-yards,' be omitted; that 'character of service' (Table H, p. 31), be omitted; but that 'average number of persons employed' be retained; that the names of officers and directors be 'run in,' instead of being set in double columns; that so much of the first volume of 1883 as is embraced within pages 403, to and inclusive of 445, be omitted; that 'history of organization' of street roads be omitted, except in case of new companies, but reference be made to their appearance in prior volumes."

Lost. Aye—Commissioner O'Donnell; nays—Commissioners Rogers and Kernan.

Ordered, that Secretary confer with the contracting printers as to the reduction of the Annual Report, and report to the Board at its next meeting.

Commissioner Rogers submitted a report in the matter of Maynard v. Ulster and Delaware Railroad Company.

Commissioner O'Donnell moved that the report of Commissioner Rogers be sent in type-writing to the respective Commissioners.

Ordered, that when Board adjourn, it adjourn to Wednesday, November 3, 10 A. M.

Board adjourned.

WILLIAM C. HUDSON,  
Secretary.

NOVEMBER 3, 1886.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. D. Northrup, relative to frogs on railroads. Ordered filed.

Letter of William S. Davis, relative to crossing at Chili. Ordered, that the Secretary inform Mr. Davis that the company have agreed to flag all trains not stopping at Chili.

Letter of Theodore Voorhees, assistant general superintendent New York Central and Hudson River Railroad Company, relative to crossing in town of Riga. Ordered filed.

Letter of F. D. Mather, relative to freight rates on the Rome, Watertown and Ogdensburg Railroad. Ordered, that the Secretary send complaint to the company.

Letter of Charles Parsons and H. M. Britton (Rome, Watertown and Ogdensburg Railroad Company), relative to the complaint of G. M. Sweet. Ordered sent.

Letter of Charles Parsons, Rome, Watertown and Ogdensburgh Railroad Company, relative to Lowville planking. Referred to Commissioner O'Donnell.

Letter of Bradford Snyder, relative to fences on line of his property on Elmira, Cortland and Northern Railroad. Ordered, copy sent to company.

Letter of A. H. Man, relative to amended reports. Ordered, that extension of time be granted until April 1, 1887.

Letter of W. J. Heacock, relative to decision of Board in the matter of Streeter Brothers v. Fonda, Johnstown and Gloversville Railroad Company. Commissioner O'Donnell moved that the draft of a letter submitted by him be sent to the company. Carried.

Ordered, that the Secretary write Mr. Pell, inquiring whether the signals have been erected at Cranston's crossing.

Commissioner Rogers called up his report in the matter of Maynard v. The Ulster and Delaware Railroad Company. Adopted after amendment, ordered printed and issued.

Commissioner O'Donnell presented the complaint of J. Rasbach v. The Rome, Watertown and Ogdensburgh Railroad Company. Ordered, usual course.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### NOVEMBER 9, 1886.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

William Lounsberry and S. D. Coykendall appeared for and were heard in the matter of Freileweh v. Kingston City Railroad Company.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Alfred Pell, relative to Cranston's crossing signal.

Commissioner Rogers moved that the attention of Mr. Depew be directed to the failure of General Manager Laying to perform his promises.

Letter of Nelson Burdick, relative to Burdick v. Utica and Black River Railroad Company. Ordered, laid over one week.

Petition of residents of Sidney against the New York, Ontario and Western Railway, Company and Delaware and Hudson Canal Company. Ordered, usual course.

Letter of W. J. Heacock (Fonda, Johnstown and Gloversville Railroad Company). Ordered filed.

Letter of John King, President New York, Lake Erie and Western Railroad Company, relative to Batavia crossing. Ordered sent to complainant.

Ordered, that Secretary send for the present time tables of roads whose termini are at Coney Island, and for a statement of commutation rates, if any are in force.

Ordered, that the inspector be directed to go to Oneida, Madison county, and prepare a sketch of the crossing thereat.

Ordered, that the salary of the stenographer be increased \$200 per annum from November 1, 1886.

Ordered, that the request of Mr. Westbrook, auditor Ogdensburgh and Lake Champlain division Central Vermont Railroad Company, that the lessee company be permitted to make the report of the Ogdensburgh and Lake Champlain Railroad Company for the year ending September 30, 1886, be granted.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### NOVEMBER 16, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of H. G. Young, relative to safety gates at crossing at Sidney. Ordered sent to petitioners, with the request that the Board be informed when done.

Letter of S. D. Coykendall, with reference to Freileweh v. Kingston City Railroad Company. Ordered filed with papers.

Letter of A. S. Davis, relative to Chili crossing. Ordered sent to President Depew.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to Cranston's crossing. Ordered sent to Mr. A. Pell.

Letter of Herbert E. Kinney, being a notification of the settlement of the Bethlehem matter.

Letter of O. S. Fellows, relative to Anglo-Swiss Condensed Milk Company's case. Ordered, that Secretary write to the companies involved that the Board is informed by the Anglo-Swiss Condensed Milk Company that no change in rates or method of doing business has taken place, and asking what, if any, action the companies propose to take under the decision.

Letter of James I. Scollard (Utica, Clinton and Binghamton Railroad Company) relative to complaint of Mr. French. Ordered sent to complainant.

Letter of A. McLeod (Elmira, Cortland and Northern Railroad Company), relative to complaint of Bradford Snyder. Ordered sent to complainant.

Letter of Thomas P. Fowler (New York, Ontario and Western Railway Company), relative to Sidney crossing. Ordered filed.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to complaint of George C. Beecher. Ordered sent to complainant.

Letter of Nelson Burdick, relative to decision in Burdick v. Rome, Watertown and Ogdensburgh Railroad Company.

Commissioner Kernan moved that the Burdick matter be reported to the Attorney-General in the usual way.

Commissioner O'Donnell moved to amend that the same action be taken as was taken this day by the Board in the Anglo-Swiss Condensed Milk Company's matter.

On the amendment the vote was, Commissioners Rogers and Kernan, nay; Commissioner O'Donnell, aye.

On the motion of Commissioner Kernan the vote was, Commissioners Rogers and Kernan, aye; Commissioner O'Donnell not voting. Carried.

Ordered, in the matter of Dr. Franklin v. The Long Island Railroad Company, that Secretary write to the general traffic manager for the tariff rates, as promised in letter October 11.

Commissioner O'Donnell reported that the recommendation of the Board in the matter of the Boonville station had been complied with.

Ordered, that in the matter of the Troy Union depot, the Secretary write to J. M. Toucey, as to what, if any, action had been taken.

The Board adjourned.

WILLIAM C. HUDSON.

Secretary.

NOVEMBER 30, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

Daniel Robinson (President Troy and Boston Railroad Company), was heard in the matter of defective bridges on the line of the Troy and Boston Railroad. Ordered, that the Troy and Boston Railroad Company will strengthen immediately rods 3 and 4 in High bridge, Hoosick Falls; rods 3, 4, 6 and 7 Petersburg Junction bridge; rods 1 and 3 North Hoosick bridge, long span; rod 1 North Hoosick bridge, short span; rods 1 and 2 State Line bridge; rod 3 Haines' bridge, so that the strain be brought within 10,000 pounds per square inch of action; and that the company strengthen the other members that are strained to a greater extent than 10,000 pounds to the square inch, during the coming season.

Also in the matter of the Troy Union Depot in which the Board suspended action for the present.

The Secretary submitted the unfinished business under the rule as follows:

Letter of the Brooklyn City Railroad Company (complaint of residents of Brooklyn). Ordered copy sent to complainant.

Letter of Charles Parsons (Second Vice-President of Rome, Watertown and Ogdensburgh Railroad Company). Ordered, that Secretary write McEwen Brothers to inform the Board whether the consignee paid the freight charges under protest, or remonstrated, and if so, to send an affidavit stating what took place.

Commissioner O'Donnell offered the following:

*Resolved*, That the Chairman of this Board report in writing to the Board what, if any, remedy exists at law against a railroad for overcharges on freight shipped over its road, first, where the sum is under \$50; second, where overcharges have continued until the amount exceeds \$50; where such suit may be commenced; against whom; and such other details as may be necessary to inform shippers of their legal rights in the matter of overcharges for freight.

Letter of A. A. McLeod (Bradford Snyder v. Elmira, Cortland and Northern Railroad Company). Ordered laid on table until next meeting.

Letter of J. E. Childs (New York, Ontario and Western Railway Company), relative to complaint of people of Sidney. Ordered copy sent to complainant.

Letter of John King (New York, Lake Erie and Western Railroad Company), and F. A. Potts (New York, Susquehanna and Western Railroad Company), relative to the Anglo-Swiss Condensed Milk Company matter.

Commissioner Kernan moved that the New York, Lake Erie and Western Railroad Company; the New York, Ontario and Western Railway Company; and the New York, Susquehanna and Western Railroad Company, be cited to show cause, December 14, 1886, at 10 A. M., why the Board should not report to the Attorney-General of the State that each of the said railroads are violating the law and the terms of its charter and are guilty of unjust discrimination in the case of the Anglo-Swiss Condensed Milk Company versus said roads, before the Board in the following particulars:

1. By maintaining a pool under an agreement to fix the rate and classification and to divide the amount received from transportation among them in certain proportions.



2. By classifying condensed milk, as shipped by complainants, as second-class instead of third-class in small lots and fourth-class in car loads.

3. By charging sixteen cents per hundred pounds in small lots and fifteen cents in car loads, instead of charging third-class rates for small lots and fourth-class rates of ten cents per one hundred pounds for car loads.

Commissioner O'Donnell moved to amend by inserting instead thereof the following: "to show cause why this Board shall not report to the Attorney-General the facts in this case in accordance with section 5 of chapter 353, Laws of 1882, particularly in unjustly discriminating in their freight charges against complainants."

Commissioner Kernan accepted the amendment, and as amended, the motion was adopted.

Letter of Charles Parsons (Second Vice-President of Rome, Watertown and Ogdensburgh Railroad Company), relative to increase of capital stock of the Rome, Watertown and Ogdensburgh Terminal Railroad Company. Ordered, that the accountant make the examination of the finances of said company, as provided in cases of applications for increase of capital stock.

Letter of C. M. Heald (Long Island Railroad Company), relative to tariff rates. Ordered filed.

Commissioner Kernan called up his report in the matter of C. C. Overton v. The Coney Island Railroad Company. After discussion and amendment, ordered adopted, printed and issued.

Commissioner Kernan submitted a report in the matter of Citizens of Oneida v. The New York, Ontario and Western Railway Company. Adopted and ordered issued.

#### NEW BUSINESS.

Commissioner O'Donnell submitted the complaint of J. D. Smith v. The Utica and Black River Railroad Company. Ordered, usual course.

The Secretary submitted the letter of Charles N. Johnson v. Forty-second Street, Manhattanville and St. Nicholas Avenue Railroad Company. Ordered, that Secretary write and say if Mr. Johnson has a complaint, to make it in writing, when the Board will take cognizance.

Ordered, on motion of Commissioner Rogers, that the attention of the New York Central and Hudson River Railroad Company be called to the fact that complaint has been made that on Friday, November 26th, when train leaving Albany at 9.55 A. M., was coupled to train from Troy at East Albany, it was with such severe bumping as to nearly throw ladies from their chairs.

Ordered, that the Secretary have authority, when in his judgment the business of the Board will be thereby facilitated, to inform superintendents and other officers that the presidents of their roads have been communicated with, and to send them a copy of such communication.

Commissioner Rogers moved that the Commissioners and Secretary submit their suggestions for the Annual Report on December 7th.

The Board adjourned.

WILLIAM C. HUDSON,

Secretary.

#### DECEMBER 7, 1886.

The Board met pursuant to rule. Present—Commissioners O'Donnell and Rogers.

On motion of Commissioner Rogers, Commissioner O'Donnell acted as Chairman.

The minutes of last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letters of John King (New York, Lake Erie and Western Railroad Company), and Thomas P. Fowler (New York, Ontario and Western Railway Company), relative to Anglo-Swiss hearing. Ordered filed.

Letters of Thomas P. Fowler, President, and J. E. Childs, General Manager New York, Ontario and Western Railway Company, relative to the McKelvey crossing at Oneida. Referred to Commissioner Kernan, with power.

Letter of A. A. McLeod (Elmira, Cortland and Northern Railroad Company), relative to the Bradford Snyder matter. Ordered filed.

Letter of McEwen Bros., relative to complaint against the Utica and Black River Railroad Company, and Rome, Watertown and Ogdensburgh Railroad Company. Ordered filed.

Letter of Alfred Hoyer, relative to couplers. Ordered, that report on coupler test be sent him with the statement that the Board has recommended no coupler to the exclusion of others, but has named those tested in the order of their merit, as it appeared to the Board.

Complaint of Streeter Bros. v. Fonda, Johnstown and Gloversville Railroad Company. Ordered, usual course.

Bill of Carl Miller for \$32.90. Ordered approved.

Bill of Rees. S. Thomas for \$50. Ordered approved.

Commissioners Rogers reported that further recommendation as to the strengthening of Haines' bridge and certain other bridges and trestles of the Troy and Boston Railroad Company had been made.

Commissioner O'Donnell reported in the Matter of the Trustees of the Village of Medina v. The New York Central and Hudson River Railroad Company, as to the crossing complained of, and the New York Central Railroad Company had agreed to put a flagman at the point at once.

Commissioner O'Donnell moved that a letter be sent to the trustees of the village, asking if the flagman had been placed there.

Commissioner Rogers submitted a report in the matter of the Annual Report. Laid on the table until the 14th inst.

Commissioner Kernan submitted a report in the matter of the Annual Report. Laid on the table until the 14th inst.

Commissioner Kernan moved that the Commissioners' Annual Report be taken up at 10 A. M., Tuesday, 14th inst.

Commissioner Rogers moved that the Board adjourn to Monday, 13th inst., at 2 P. M. Carried.

WILLIAM C. HUDSON,

*Secretary.*

#### DECEMBER 13, 1886.

The Board met pursuant to adjournment. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of John H. Bewley relative to brakemen on the New York and Harlem Railroad. Ordered, that Secretary write and say there is no law requiring companies to have a specific number of brakemen. The Board knows no reason why three brakemen are not able to perform all the duties required on a train of nine cars, equipped with air-brakes. If, however, there are special reasons why the Harlem road should have more, the Board will give them consideration upon their presentation.

Letter of C. H. Myers, relative to the fixing of the clear height of bridges above rails. Ordered, that Secretary write referring to chapter 439, Laws of 1884, and say that while there is no law upon the subject, the Board has recommended that they be twenty feet in the clear, and specifying section 2, chapter 439.

Letter of Charles Parsons, Jr., accompanied by letter of H. M. Britton, relative to complaint of J. D. Smith. Ordered, usual course.

Letter of J. C. Hopper et al., being reply of petitioners in answer of Brooklyn City Railroad Company to petition of residents of Brooklyn. Ordered, that Secretary write to company asking what, if any, action was taken by Brooklyn common council on Friday last.

Letter of William Lounsberry, being complaint against Kingston City Railroad Company. Ordered, usual course.

Letter of Charlotte E. Mitchell, complaining against the Elmira, Cortland and Northern Railroad Company. Ordered, usual course.

Letter of Frank J. Kearney, clerk of Medina. Referred to Commissioner O'Donnell.

Letter of McEwen Brothers & Co. and Thomas E. Proctor (complaint of McEwen Brothers). Referred to Commissioner Kernan.

Letter of H. C. Weller, relative to complaint of citizens of Sidney. Ordered filed.

Letter of A. R. Culver. Ordered that a copy be sent to C. C. Overton with request for immediate answer, and that Mr. Culver be informed that the Board has taken the matter into consideration and will advise him, until which time, 6:30 A. M. trains need not be run.

Bill of Thomas W. Spencer for \$100.13, for traveling expenses. Ordered approved.

Commissioner Kernan reported that he passed over and inspected the rolling stock of the South Ferry Railroad Company, and found the latter in an unfit condition for use, and he moved that inquiry be sent to the company calling for attention to the bad condition of the rolling stock, and asking what, if any, reason exists why proper and sufficient rolling stock should not be provided. Report accepted.

Commissioner Kernan also reported on the McKelvey crossing. Report accepted.

Also, that he had inspected the lines of the Brooklyn City Railroad Company to Fort Hamilton.

On motion of Commissioner O'Donnell, and by unanimous consent, the Board went into executive session on the Annual Report.

In open session the Board adjourned until December 14, 10 A. M.

#### DECEMBER 14, 1886—10 A. M.

Board met. Present—Commissioners Kernan and Rogers.

Messrs. C. J. Buchanan and J. R. Cummings, counsel of New York, Lake Erie and Western Railroad Company, were heard on an order to show cause why the facts in the matter of the Anglo-Swiss Condensed Milk Company should not be reported to the Attorney-General.

Ordered, that a draughtsman and a copyist be employed for temporary service, and that the Secretary be instructed to make requisition upon the Civil Service Commission for the same.

Adjourned.

WILLIAM C. HUDSON,

*Secretary.*

DECEMBER 21, 1886.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letters of A. R. Culver and accompanying copies of C. C. Overton, and of I. S. Catlin, relative to the complaint of C. C. Overton v. Coney Island Railroads. Ordered that Mr. Culver's letter and accompanying copies be sent Mr. Overton, and that Mr. Overton's and Mr. Catlin's letters be sent Mr. Culver.

Letter of B. W. Spencer, asking extension of time in which to answer complaint of residents of Rushford. Granted.

Letter of A. T. Clearwater, asking extension of time in which to answer complaint of William Lounsbury. Granted, and hearing set down for three weeks from date, January 11.

Letter of D. S. Lewis (President Brooklyn City Railroad Company). Ordered filed.

Letter of J. D. Smith, reply to the answer of Rome, Watertown and Ogdensburgh Railroad Company to his complaint. Referred to Commissioner O'Donnell.

Letter of A. S. Davis, relative to crossing at Chill station. Ordered, that Secretary write J. M. Toucey that the agreement entered into that the station men should flag the crossing does not seem to be carried out so as to protect people using the highway. In view of this fact, the Board desires to know why it should not recommend the placing of a flagman at the crossing, whose business it should be to strictly attend to the duty of flagging passing trains.

## NEW BUSINESS.

Bill of T. J. Cowell, for stationery, \$214.43. Ordered approved.

Commissioner O'Donnell submitted complaint of R. Kraft. Ordered copy sent to Staten Island Railroad Company.

The Board went into executive session on the Annual Report.

In open session the report was adopted, as presented, after amendment.

Commissioner Kernan submitted a report in answer to resolution of Board of November 30, 1886. Accepted, and ordered placed on file.

The accountant submitted a request for another copyist. Ordered that Secretary make requisition for the same on the Civil Service Commissioners.

The accountant submitted proposition to omit in printing of Annual Report for report of steam roads as follows:

"Cost of road per mile owned;" "cost of equipment per mile owned;" "cost of road and equipment per mile owned;" "earnings and expenses per mile operated," from steam and horse roads; "operating cost, including and excluding taxes." So ordered.

Ordered to use figures of cost of road, etc., and issue of stock and bonds of Broadway Surface Railroad, as furnished in last year's report, for the purpose of making comparison of results of the year's business, and to so state in a note at foot of tables.

Board adjourned.

WILLIAM C. HUDSON,

Secretary.

DECEMBER 28, 1886.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Bird W. Spencer, in answer to complaint of Citizens of Rushford v. Tonawanda Valley and Cuba Railroad Company. Ordered, usual course.

Letter of Edward Lauterbach, relative to rolling stock of South Ferry Railroad Company. Ordered, carried on file.

Letter of A. H. Man, relative to Coney Island car service. Ordered, carried on file.

Letter of W. J. Heacock (Fonda, Johnstown and Gloversville Railroad Company), relative to complaint of George A. Streeter and Brothers. Ordered, carried on file.

Letter of Lowory, Stone & Lauterbach, inquiry as to construction of chap. 808, Laws of 1886. Ordered, that opinion of Board is that as to lumber and ore roads, the act is applicable only to those wholly constructed after the act; as to roads of summer travel, it seems to apply to those heretofore, as well as hereafter, constructed.

Letter of Rome, Watertown and Ogdensburgh Railroad Company, as to complaint of Mr. Rasbach and Mr. F. D. Nealon v. Rome, Watertown and Ogdensburgh Railroad Company. Usual course.

Commissioner Rogers stated that the Troy and Boston Railroad Company had failed to file its annual or quarterly reports, and moved that the fact be presented to the Attorney-General.

Ordered, that the Syracuse and Geddes Railroad Company be cited to show cause why its failure to file its fourth annual report should not be presented to the Attorney-General.

Commissioner O'Donnell called up the report of Commissioner Kernan on the resolution of the Board of November 30, 1886.

Commissioner Kernan offered an amendment which was carried, and the report, as amended, was ordered printed and placed on file.

Commissioner Kernan submitted a petition of citizens of Champlain, Clinton county, N. Y., against the Ogdensburgh and Lake Champlain Division of the Central Vermont Railway Company. Ordered, usual course.

Application of New York and Sea Beach Railroad Company to suspend operation until the coming spring, was submitted, and Mr. J. T. Nelson in support thereof was heard.

The Board made the following order therein:

The order of the Board is that a copy of the application be sent to Mr. Overton with the order of the Board, to wit: That the road run for ten days after the first of January, and then send to the Board the results of the operation for those ten days; and that Mr. Overton be requested to inform the Board as to whether the Thirty-ninth Street Ferry, when put in operation, will afford sufficient accommodation for those who have heretofore used the Bay Ridge Ferry.

Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### JANUARY 4, 1887.

The Board met pursuant to rule. Present—Commissioners Rogers and O'Donnell, Commissioner Kernan (stating by telegraph) being detained by sickness.

Commissioner Rogers in the chair.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Answer of Kingston City Railroad Company to complaint of William Lounsberry and reply of Mr. Lounsberry. Ordered laid over.

Letter of A. R. Culver in answer to communications of C. O. Overton and Gen. I. S. Catlin, with Exhibits "A," "B," "C," "D," "E," "F," "G," "H" and "I," of E. B. Litchfield and of Charles C. Overton, in matter of Overton v. The Coney Island Railroad Company. Laid over.

Letter of J. Rasbach, in reply to answer of Rome, Watertown and Ogdensburgh Railroad Company to his complaint. Referred to Commissioner Rogers.

Letter of citizens of Rushford in reply to the answer of Bird W. Spencer, Receiver Tonawanda Valley and Cuba Railroad Company, to complaint of citizens. Ordered, that letter submitted by Commissioner Rogers be sent in reply.

Letter of J. M. Toucey, relative to the Chili crossing. Referred to Commissioner Kernan.

Letter of B. Thomas, complaining against the Twenty-third Street Railroad Company. Ordered, usual course.

R. H. Soule, superintendent of motive power, New York, Lake Erie and Western Railroad Company, was heard in reference to the operation of the law providing for automatic couplers upon all new cars built after July 1, 1886.

Ordered, that Daniel Robinson, President of the Troy and Boston Railroad Company, be summoned by citation or subpoena, or both, in the discretion of the Secretary, to produce the annual and quarterly reports of that company to file with the Board.

Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### JANUARY 11, 1887.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were approved.

The Secretary submitted letter of Thomas W. Spencer, notifying the Board that he had been subpoenaed as a witness against the Buffalo, New York and Philadelphia Railroad Company.

Commissioner Kernan offered the following resolution:

WHEREAS, Mr. Thomas W. Spencer, the Inspector of this Board, appointed under chapter 441 of Laws of 1884, and, therefore, the agent of this Board, has been subpoenaed in matter of a suit against the Buffalo, New York and Philadelphia Railroad Company, or its receiver, touching an accident occurring at Avon on February 22, 1886, wherein Shuart & Sutherland, of Rochester, N. Y., are attorneys and counselors for the plaintiff, to testify as to information gained by him as to the cause of said accident; and,

WHEREAS, Such information was gained by him and reported to the Board in the discharge of his official duties, and under the special instructions of the Board of Railroad Commissioners to proceed to the scene of the accident and make an investigation and inspection.

Resolved, That the said inspector, Thomas W. Spencer, be instructed by the Commissioners, that in their judgment the public interests require that publicity should not be given to such information, and, therefore, that the Attorney-General be and he is hereby

requested to appear in behalf of the Board and of said Spencer, and to submit to the court that said Spencer should not be required to attend or to give testimony touching the information gained by him as to this accident at Avon, while discharging his official duties under the instructions of the Commissioners. Adopted.

Mr. Alrick H. Man was heard in support of the application of the New York and Sea Beach Railroad Company to suspend operations for the winter.

The Secretary submitted the unfinished business, under the rule, as follows:

Letters of H. G. Young (Delaware and Hudson Canal Company), and Angell & Spellman, relative to the complaint of citizens of Champlain.

Letter of J. F. Emmons (President Staten Island Rapid Transit Company) relative to the complaint of R. Kraft. Ordered, that the Secretary write that the maintenance of gate as an experiment is praiseworthy and in the public interest.

Letter of J. Raabach, relative to his complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Ordered, that the draft of a letter submitted by Commissioner Rogers be sent as the answer of the Board to the Rome, Watertown and Ogdensburgh Railroad Company.

Letter of F. D. Mather, relative to complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Ordered, laid over until the 18th inst.

Ordered, that H. M. Thompson, accountant, be instructed to examine the finances of the Rome, Watertown and Ogdensburgh Terminal Railroad Company, as to the cost of construction, capital and bonded indebtedness, and report thereon to this Board.

Ordered, that Secretary write to President King (New York, Lake Erie and Western Railroad Company), and ascertain why its promise to erect electric signal at Batavia is not fulfilled.

Ordered, that Secretary write J. M. Toucey that the Board is still of opinion that a flagman is needed at Chili station, and so recommends.

Ordered, that the matter of Frellewah v. Kingston City Railroad Company be referred to Commissioner Kernan.

Commissioner Kernan submitted a report on McEwen Bros. v. Rome, Watertown and Ogdensburgh Railroad Company. Ordered, laid on table and printed.

Commissioner Kernan submitted a report in matter of William Lounsberry v. Kingston City Railroad Company. Ordered, adopted and issued.

Board adjourned until January 12, 1887, 10 A. M.

#### JANUARY 12, 1887—10 A. M.

The roll being called and no quorum present, meeting was adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

#### JANUARY 18, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of John King (New York, Lake Erie and Western Railroad Company), relative to complaint of E. C. Walker. Ordered copy sent to Senator E. C. Walker.

Answer of Central Vermont Railroad Company to complaint of citizens of Champlain versus said road. Ordered, usual course.

Letter of Twenty-third Street Railroad Company, to complaint of B. Thomas. Ordered, usual course.

Ordered, that Secretary write to New York, Ontario and Western Railway Company, and Delaware and Hudson Canal Company, and ascertain why their promise as to stationing a flagman at the crossing at Sidney has not been fulfilled.

Ordered, that copies of the resolution of the Bay Ridge and Fort Hamilton Citizens' Association and the letter of C. C. Overton be sent to A. H. Man.

The Secretary submitted the report of the accountant on the financial condition of the Rome, Watertown and Ogdensburgh Terminal Railroad Company, in the matter of its application for an increase of capital stock from \$50,000 to \$300,000.

Commissioner Kernan offered the following resolution:

*Resolved*, That a copy of the report of the accountant to this Board, in the matter of the increase of the capital stock of the Rome, Watertown and Ogdensburgh Terminal Railroad Company, be sent to the company with a request that the company send the Board an affidavit showing how the proceeds of the proposed increase are to be expended and also an estimate, under oath, as to the cost of the proposed improvements.

Commissioner Rogers moved to amend by substituting the following:

WHEREAS, The accountant of this Board has reported that there has already been expended for construction on the Rome, Watertown and Ogdensburgh Terminal Railroad \$82,749.89; and in addition to the above, that the president informs him that \$125,000 has been expended for right of way; that there is about \$70,000 still to be paid for further right of way, and about \$50,000 for a bridge, and other sums, aggregating in all about \$510,000;

*Resolved*, That an increase of \$250,000 stock be approved by this Board.

Lost. Aye — Commissioner Rogers; nays — Commissioners O'Donnell and Kernan.

Commissioner O'Donnell offered to amend the resolution of Commissioner Kernan by substituting as following:

WHEREAS, The report of the accountant of this Board states that the books of the company show only the actual expenditure of \$32,749.80 by the company; therefore,

*Resolved*, That this Board will approve the issue of this amount of capital stock, and when the books of the company show that it has actually paid any further sum, this Board will approve of the increase of capital stock for such amount, up to the full sum asked for in this application.

Lost. Aye — Commissioner O'Donnell; nays — Commissioners Rogers and Kernan.

The question upon the adoption of Commissioner Kernan's resolution was carried. Ayes — Commissioners Rogers, O'Donnell and Kernan.

Commissioner Kernan called up his report on the laws to be recommended to the Legislature.

The report was adopted, Commissioner O'Donnell voting in the negative against the Exigency act and the act relating to the Transportation of Explosives.

Commissioner Kernan submitted a bill relative to the issue of stock.

Commissioner O'Donnell moved to amend by inserting after the word "issued," in the first section, as follows:

"Nor shall the Board of Railroad Commissioners hereafter consent to any increase of capital stock until the railroad company applying therefor shall have expended the full amount of such capital stock applied for, or shall have received in its treasury, in money or in property, or in earnings of the corporation that has actually gone into construction, the par value of the shares of capital stock so proposed to be increased."

Lost. Aye — Commissioner O'Donnell; nays — Commissioners Rogers and Kernan.

Commissioner Rogers moved to amend by striking out in section 3, the word "felony," and insert in lieu thereof, the word "misdemeanor."

Lost. Aye — Commissioner Rogers; nays — Commissioners O'Donnell and Kernan.

On the original bill, as submitted by Commissioner Kernan, all voting aye, Commissioner Rogers concurring and offering the amendment substituting "misdemeanor," for "felony," in the third section; and Commissioner O'Donnell offering the amendment changing section one to section two.

Commissioner Kernan submitted a report in the matter of the application of Rockaway Village Railroad Company to abandon operations for the winter. Adopted and ordered placed on file.

Commissioner Kernan moved that the Board grant an order permitting the Rockaway Village Railroad Company to abandon the operation of the road until the 15th day of April, upon complying with the provisions of chapter 608, Laws of 1888. Adopted.

Commissioner Kernan called up his report in the matter of McEwen Brothers v. The Rome, Watertown and Ogdensburgh Railroad Company.

Commissioner Kernan moved that the company be notified that the application for a reconsideration and a reversal of its decision are denied, and that the case is one which the Board will deem its duty to report especially to the Legislature, unless the recommendation be complied with and the Board be notified to that effect on or before January 25, 1887.

Carried. Ayes — Commissioners O'Donnell and Kernan; nay — Commissioner Rogers.

Commissioner Kernan moved the adoption of the report called from the table.

Carried. Ayes — Commissioners O'Donnell and Kernan; nay — Commissioner Rogers.

Commissioner Kernan offered the following resolution:

*Resolved*, That the Attorney-General be respectfully requested to inform this Board as to the condition of the various cases heretofore reported to him by the Board, and also, what, if any legal difficulties exist to prevent him from securing compliance with the decisions and recommendations of the Board.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

# JANUARY 25, 1887.

The Board met pursuant to rule. All present.

Commissioner Rogers moved that the regular business be suspended, and that Mr. W. J. Heacock, President, and Mr. Britton, General Freight Agent of the Fonda, Johnstown and Gloversville Railroad Company, be heard at this time.

Commissioner O'Donnell raised the point of order that the motion could not be entertained until after the reading of the minutes. The Chairman ruled the point not well taken.

On motion of Commissioner Rogers, the vote was:

Aye — Commissioner Rogers; nays — Commissioners O'Donnell and Kernan. Lost.

The Chairman called for the regular order.

The minutes of the last meeting were read and approved.



The Secretary submitted the unfinished business, under the rule, as follows:

Letters of I. F. Maynard (Utica and Black River Railroad Company), and Chas. Parsons (Rome, Watertown and Ogdensburgh Railroad Company), relative to the McEwen complaint and decision. Ordered, that copies of the letters be sent to McEwen Brothers, and the case closed.

Letters of H. G. Young (Delaware and Hudson Canal Company), and Thos. P. Fowler, President, and J. E. Childs, General Manager, New York, Ontario and Western Railway Company, relative to the crossing at Sidney. Ordered copy sent to complainants and case closed.

Letters of Charles Parsons, Jr., Vice-President, and E. M. Moore, General Freight Agent Rome, Watertown and Ogdensburgh Railroad Company, relative to complaint of J. Rasbach, Orleans Four Corners. Ordered copy sent to Mr. Rasbach.

Letter of Supervisors of Orange county v. The New York, Lake Erie and Western Railroad Company, petitioning for new depot at Greycourt. Ordered, usual course.

Letters of John Robertson and F. D. Palmer, road commissioners, town of Riga, appealing for protection of crossing at Churchville. Ordered, usual course.

Letter of George E. Lockwood, president village of Mechanicville, asking for effect of decision of Court of Appeals on their petition. Ordered, that he be written stating that the matter had been turned over to the Attorney-General for his action; that a decision had recently been handed down by the Court of Appeals, considering a question somewhat similar, and suggesting that they procure a copy of this decision.

Letter of John F. Hoyle, Mount Vernon, N. Y., relative to decision of Court of Appeals. Ordered that he be informed that a copy of the decision of the Court of Appeals will be sent him.

Ordered, that the Secretary write Messrs. Angell and Spellman, asking whether the letter written to them and marked "personal" is to be regarded as a reply to the answer of the Central Vermont Railroad Company; and if not, that a formal reply is required, under the rules of the Board.

Letter of J. M. Toucey, relative to the Troy Union depot. Ordered, that in view of the accident occurring December 4, 1886, at the depot, by which a man was caught between a train and stone pillar, and his skull crushed, the President of the Troy Union depot be ordered to show cause before the Board February 1, why the Board should not renew its recommendation of December 15, 1885.

Sworn letter of Chas. Parsons, Jr., President Rome, Watertown and Ogdensburgh Terminal Railroad Company, relative to the application for increase of capital stock.

Commissioner Rogers submitted a report approving the same. Adopted. Commissioners Rogers and Kernan, aye; Commissioner O'Donnell, nay.

Commissioner O'Donnell submitted a minority report. Both ordered issued.

Letter of J. D. Smith, relative to his complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Commissioner O'Donnell submitted a report thereupon. Ordered adopted and issued.

Letter of Mortimer C. Earl, relative to complaint against the Brooklyn and Jamaica Road Company. Ordered, usual course.

Letter of Geo. A. Benham, asking for copies of certain documents. Ordered, that the Secretary write saying that the documents are on file in this office, where they can be examined, but that the Board cannot undertake to make and send copies of them.

Commissioner Rogers submitted a report, that he had visited the New York and Sea Beach Railroad Company, as a matter of investigation in the Overton complaint. Laid over one week, upon the application of A. H. Man (New York and Sea Beach Railroad Company).

Commissioner Rogers reported that he had investigated the collisions on the Manhattan Elevated Railway, occurring January 11th and 19th. After discussion, the matter was referred to Commissioner Rogers.

Commissioner O'Donnell moved that five hundred copies of the decision of the Court of Appeals in the matter of The People v. The New York, Lake Erie and Western Railroad Company, be printed.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### FEBRUARY 1, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. P. Tyson, being a complaint against the Staten Island Railroad Company. Ordered, usual course.

Letter of Fred. Smith, being a complaint against the New York Central and Hudson River Railroad Company, and Delaware and Hudson Canal Company. Ordered, usual course.

Letter of Aaron A. Degrauw, in answer to complaint of M. C. Earl, and of M. C. Earl's reply to answer of A. A. Degrauw.

Commissioner Rogers moved that the inspector be furnished with the papers in the case.



and he be instructed to inspect the road and report to the Board as to the physical condition of the same, and particularly as to its time-table and service to the public. Carried.

Letter of W. J. Heacock, in answer to complaint of Streeter Brothers. Ordered, usual course.

Letter of George D. Chapman (Lackawanna and Pittsburgh Railroad Company), relative to the complaint of Chauncey Hagadorn. Ordered, that a copy of the letter be sent to Mr. Hagadorn.

Commissioner O'Donnell moved that the Secretary write to the Receiver that the case is held open and that the Board trusts that the matter will be arranged satisfactorily, so far as the means will permit, as indicated by letter of date of January 28th. Carried.

Letter of Chas. A. Winship, inquiring as to the remedy for wrongs alleged to have been received. Ordered, that the Secretary write and say that if he will send a complaint the Board will endeavor to correct such evils as exist.

Letter of B. Thomas, General Superintendent New York, Lake Erie and Western Railroad Company, in reply to answer of Jacob Sharp, President of the Twenty-third Street Railroad Company. Ordered, that a hearing be set down for 1.30 P. M., February 8, 1887.

Letter of J. Rasbach, relative to his complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Ordered, that the Secretary write that the Board assumes that the matter has been satisfactorily settled, and that if he desires the Board to entertain any complaint as to the stations, or claim for payment of sums alleged to be in excess of proper payment, after he has presented the bill to the road, the Board will entertain them.

Letter of W. R. Strong, complaining of milk rates. Ordered, usual course.

Petition of residents of Brighton and Henrietta v. The New York Central and Hudson River Railroad Company. Ordered, usual course.

Letter of Charlotte E. Mitchell, relative to the complaint against the Elmira, Cortland and Northern Railroad Company. Ordered, that she be written to, stating the Board has called the attention of the road twice to her complaint, but has received no answer; upon receiving such it will take action promptly.

Commissioner Kernan moved, in the matter of the bills recommended by the Commission, now before the Railroad Committee of the Assembly, the matter of explaining them be referred to Commissioner Rogers, to answer such questions as the Committee may ask, and represent the views of the Board. Carried.

Commissioner Kernan reported, that on Wednesday, the 26th of January, he inspected the junction of the Second and Third avenue elevated roads at Chatham Square.

Commissioner Rogers moved, that a letter be addressed to F. K. Hain, calling attention to the letter of the Board of January 25, and stating that in addition to the questions therein asked, the Board desires further to inquire whether it would not be practicable and a measure of additional security, to place an additional flagman upon the platform between Second and Third avenues, whose duty it should be to operate a light red gate or bar across the Second avenue down track, the same at night to be lighted with a red light, the gate to be of such character that an engine would easily break it if it should pass the danger signal No. 2. Carried.

Commissioner Kernan called up his report, in the matter of the Anglo-Swiss Condensed Milk Company's case, and moved its adoption.

Commissioner Rogers moved that it be laid on the table, pending the action of the President on the Inter-State Commerce Bill. Carried. Ayes—Commissioners Rogers and O'Donnell. Nays—Commissioner Kernan.

Commissioner O'Donnell moved that the New York, Lake Erie and Western Railroad Company be notified that the Board has received the opinion of the Court of Appeals, wherein the order of the Supreme Court granting a mandamus, directing the building of a suitable depot at Hamburg has been reversed, and that the Board, unless notified that the railroad company will comply with the recommendation of the Board, will deem it its duty to send a special message to the Legislature, inclosing the opinion of the Court of Appeals. Carried.

The Board adjourned.

WILLIAM C. HUDSON,  
Secretary.

## FEBRUARY 8, 1887.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of McEwen Brothers. Ordered, that the Secretary write the roads and say that the Board is surprised to receive after their statement of dates, a letter, a copy of which is inclosed, and ask that the Board be informed on or before Monday, February 14, whether the payment has been made.

Letter of O. S. Fellows (Anglo-Swiss Condensed Milk Company), relative to failure of roads to comply with decision of Board. Ordered filed.

Letter of John King (President New York, Lake Erie and Western Railroad Company), relative to complaint as to Greyhound depot. Ordered, usual course.

Letter of F. K. Hain (General Manager Manhattan Elevated Railroad Company). Ordered laid over and matter given to the press. Carried. Commissioner Rogers, nay; Commissioners O'Donnell and Kernan, aye.

Report of the inspector on the Locke automatic coupler. Ordered, that the Secretary write Mr. Locke, saying from the report of the inspector to the Board, the Board is satisfied that the Locke automatic coupler is worthy of consideration and practical trial by railroads, and at the next public test of couplers he is invited to be present with his coupler.

In the matter of the application for an increase of capital stock by the Atlantic Avenue Railroad Company, it was ordered, that the accountant be instructed to make examination into the financial affairs of the Atlantic Avenue and the South Brooklyn Central Railroad Companies, for purposes of ascertaining the cost of construction and equipment, the issue of stocks and bonds, etc.

The Secretary submitted a resolution passed by the Assembly, requesting the Board to report to the Legislature what legislation was necessary to secure safety in heating cars. Ordered, that the Secretary prepare and issue a circular, calling for a hearing on the question of heating cars, for February 16, 1887.

Commissioner Kernan called up his report in the matter of the Anglo-Swiss Condensed Milk Company v. The New York, Lake Erie and Western; New York, Ontario and Western; and New York, Susquehanna and Western Railroad Companies, and moved its adoption, and that the case be sent to the Attorney-General for his consideration and action.

Commissioner Rogers moved to amend by substituting the following:

WHEREAS, The questions involved in the case of the Anglo-Swiss Condensed Milk Company against the New York, Lake Erie and Western and other railroads are those of inter-State commerce; and

WHEREAS, A national commission is about to be created to consider such questions, having full power therein, and

WHEREAS, It is very doubtful if the State can afford any relief, however,

Resolved, That the Anglo-Swiss Condensed Milk Company be advised to lodge its complaint with the Inter-State Commerce Commission as soon as created. Lost. Commissioner Rogers, aye; Commissioners O'Donnell and Kernan, nay.

On the original question the vote stood: Aye — Commissioner Rogers; nay — Commissioner Kernan; and Commissioner O'Donnell, concurring in the conclusion, voted aye.

Telegram from Byron Holley, chairman executive board of the city of Rochester, relative to the action of the Rome, Watertown and Ogdensburgh Terminal Railroad Company. Ordered, that answer submitted by Commissioner Kernan be sent.

Board adjourned.

WILLIAM C. HUDSON,  
Secretary.

#### \* FEBRUARY 15, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of W. T. Rockwood, relative to his flexible platform protector. Referred to Commissioner O'Donnell.

Letter of H. C. Weller, relative to the failure of the Delaware and Hudson Canal Company to station a flagman at Sidney as promised. Ordered, that the Secretary send a copy of the letter to H. G. Young, calling his attention to his letter of date of January 24, and ask an explanation of the failure.

Letter of McEwen Brothers, John Thorn (Utica and Black River Railroad Company), and Charles Parsons (Rome, Watertown and Ogdensburgh Railroad Company), announcing payment of overcharge. Ordered closed.

Letter of Chauncey Hagadorn, relative to the service of the Lackawanna and Pittsburgh Railroad Company at Nunda. Referred to Commissioner Kernan.

Letter of Byron Holley, relative to action of Rome, Watertown and Ogdensburgh Terminal Railroad Company at Rochester. Laid on table.

Letter of A. H. Man (New York and Sea Beach Railroad Company). Ordered filed.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), accompanied by letter of J. D. Layng, relative to petition of citizens of Henrietta and Brighton. Ordered, usual course.

Letter of C. M. Depew, accompanied by letter of H. J. Hayden, Vice-President of the New York Central and Hudson River Railroad Company, relative to complaint of Fred Smith. Ordered, usual course.

Letter of G. A. Streeter Brothers, in reply of complainant to answer of Fonda, Johnstown and Gloversville Railroad Company. Ordered, sent to road with request for immediate answer.

Letter of Mr. N. Staples (New York, Lake Erie and Western Railroad Company), with affidavit of Oscar Scott. Ordered, that copy of affidavit be sent to Jacob Sharp and order to show cause why Board should not recommend running of cars to foot of Twenty-third street at 1.30 P. M., Wednesday, February 23, 1887.

Letter of H. M. Thompson, resigning his position as accountant to the Board, to take effect February 28, 1887.

Commissioner Kernan offered the following resolution:

*Resolved*, That the resignation of H. M. Thompson be accepted, and that in accepting it the Board desires to record its regret that it will thereby lose the services of one who has been faithful to the arduous duties of an exacting trust, and who has met every requirement with ability and integrity. Carried.

Report of the accountant as to his examination into the finances of the Atlantic Avenue Railroad Company, etc. Accepted and ordered laid on the table.

Four bills referred to the Board by Assembly Committee on Railroads as follows:

I. 196. An act to provide against accidents or damages to citizens on the various structures of the elevated roads in the city of New York.

I. 41. An act to provide for the security of passengers and employees upon the elevated railroads in this State.

I. 361. An act to amend chapter 156, Laws of 1879, entitled "An act to authorize the consolidation of Jamaica, Woodhaven and Brooklyn Railroad Company with the Jamaica and Brooklyn Plank Road Company."

I. 192. An act to provide for the issue of transfer tickets by surface railroad companies operating entirely within the limits of Manhattan island.

Commissioner O'Donnell moved that a public hearing upon these bills be set down for Wednesday, February 23d, 10 A. M., and all parties interested be notified, copies of the bills sent them, and the Railroad Committee of the Assembly be invited to attend.

Commissioner Kernan called up his report on the motion to re-open the case of Freileweh et al. v. Kingston City Railroad Company. Adopted and ordered issued.

Ayes—Commissioners Rogers and Kernan; not voting Commissioner O'Donnell.

Commissioner Kernan submitted letter from R. E. Sutton, chamberlain of Rome. Ordered, that the inspector be requested to go to Rome and inspect the depot crossing, and report to the Board.

Report of the inspector on the condition of the Jamaica and Brooklyn road Company. Ordered that the Secretary write company that many of the causes of complaint alleged by complainant have been found to exist, and that it is required to show why the recommendations suggested by the inspector should not be made, Thursday, February 24, 1887, 10 A. M.

Commissioner Rogers reported that Messrs. M. W. Cooke and Byron Holley had requested that the Board suspend action in the Matter of the Executive Committee, City of Rochester v. Rome, Watertown and Ogdensburgh Terminal Railroad Company. Ordered, that in case of reference of bills by the Legislature or the Governor to the Board, after the Board has adjourned, the Secretary shall set down the following Tuesday as a day for public hearing thereupon and notify the parties involved.

Board adjourned until Wednesday morning, 10 A. M.

#### FEBRUARY 16, 1887.

Board met pursuant to adjournment. All present.

A public hearing was given in the matter of heating and lighting cars, under the legislative resolution, for four hours.

Mr. William Richardson was heard in the matter of the application of the Atlantic Avenue Railroad Company for an increase of capital stock.

Board adjourned.

WILLIAM C. HUDSON,  
Secretary.

#### FEBRUARY 23, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Reply of citizens of Henrietta and Brighton to answer of West Shore Railway Company to complaint. Referred to Commissioner Kernan.

Petition of residents of Watervliet for crossing on Delaware and Hudson Canal Company's road. Ordered, usual course.

Letter of Van Sicklen & Co., relative to bill to protect commerce on the canals. Ordered, that Secretary inform writers that the Board has reported the bill which, as reported, applies only to canals owned by the State; that it would be proper for their representatives in the Legislature to move to amend, so as to cover all canals.

Letter of E. P. Tyson, relative to his complaint against the Staten Island Railway Company. Ordered laid over for a week.

Ordered, that the correspondence relating to Rome, Watertown and Ogdensburgh Terminal Railroad, in Rochester, be filed.

Letter of L. H. Myers, relative to Staten Island Railway and Ferry Company. Referred to accountant to answer, and answer be sent.

Report of the inspector on the accident at Rome. Ordered that a copy of the complaint and report be sent the New York Central and Hudson River Railroad Company, and that the Secretary write that the Board desires to know who was responsible for failure to remove the snow and to have the gates in operation.

The Board heard W. C. Trull, of the Broadway and Seventh Avenue Railroad Company; Vice-President Wyman, of the Belt Line Railroad Company; Superintendent Skitt, of the Fourth Avenue Railroad Company; President Frank Curtis, of the Sixth Avenue Railroad Company; L. Adler, representing the Third Avenue Railroad Company, in opposition, and Assemblyman McKenna, in favor of the bill to provide transfer tickets on the street surface lines in New York city.

Also, A. A. Degrauw, President, and Mr. Scott, Superintendent of the Jamaica and Brooklyn Railroad Company, in opposition, and J. R. Brown, in favor of the bill to provide for the taxation of the property of the Jamaica and Brooklyn Road Company.

Also, Jacob Sharp, President of the Twenty-third Street Railway Company, and G. Conners, counsel, in answer to citation in Matter of B. Thomas v. Twenty-third Street Railway Company.

Also, J. R. Brown and associate T. D. Sullivan, in favor, and Julien T. Davies, Jr., counsel, and Mr. Whitehouse, engineer, against the bills to provide guards at stations and drip-pans on the Manhattan Elevated Railway.

Adjourned until Thursday, 10 A. M.

#### FEBRUARY 24, 1887.

The Board met pursuant to adjournment. All present.

The Board heard M. C. Earl, Edward F. Linton, David J. Molloy and Herbert C. Smith, as complainants, and Aaron A. Degrauw and Superintendent Scott, as defendants, in the Matter of M. C. Earl v. The Jamaica and Brooklyn Road Company.

Commissioner Kernan submitted a report on the Assembly elevated railroad drip-pan bill and the guard bill. Adopted and sent to the committee with the bills.

Commissioner Rogers submitted a report on the subject of heating cars, and moved its adoption.

Commissioner Kernan moved to amend by adding a proposed bill on that subject. Amendment accepted.

On the motion of adoption, the vote was: Ayes—Commissioners Rogers and Kernan, Nay—Commissioner O'Donnell.

Commissioner O'Donnell submitted a minority report.

Ordered that the reports and bills be printed and sent to the Assembly.

Commissioner Kernan submitted a report in the Matter of Earl v. The Jamaica and Brooklyn Road Company. Ordered, adopted and issued.

Commissioner Kernan submitted form of letter in the Matter of the Citizens of Nunda v. The Lackawanna and Pittsburgh Railroad Company to be sent to the Receiver. Ordered, adopted and issued.

The Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

#### MARCH 1, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Answer of the Delaware and Hudson Canal Company (by H. G. Young), to complaint of residents of Watervliet. Ordered, usual course.

Letter of Wm. F. Purdy, relative to safety brake. Ordered, that the Secretary write that the Board will hear him Tuesday, March 8.

Letter of Fred. Smith, relative to his complaint against the New York Central and Hudson River Railroad Company, announcing refunding of over-charge. Ordered, case closed.

Letter of H. G. Young (Delaware and Hudson Canal Company), relative to flagman at Sidney. Ordered filed, and that the Secretary write Mr. H. C. Weller asking if the flagman is thus stationed.

Answer to the Fonda, Johnstown and Gloversville Railroad Company to letter of Streeter Bros.

Commissioner O'Donnell moved that so much of the complaint as relates to twelve bags of feed being lost, be dismissed for the reason that all matters involved in the complaint have been adjudicated, or opportunity given to present the same at a previous hearing. Carried.

Ordered, that the Secretary write Mr. M. F. Burton (Fonda, Johnstown and Gloversville Railroad Company), for date when over-charge was refunded and send a copy of Mr. Burton's letter to Streeter Brothers.

Letter of L. H. Meyer, relative to reports of Staten Island Rapid Transit Railroad Company. Referred to Commissioner Kernan, who reported by draft of letter to be sent as ordered.

Letter of A. A. Degrauw, announcing intention to comply with recommendations of the Board in the Matter of M. C. Earl v. Jamaica and Brooklyn Road Company. Ordered, copy sent to Mr. Earl.

The Board heard Mr. O. H. Snyder, in reference to proposed bill.

Also Mr. Plass, relative to car-heating device.

Also Mr. Brady, relative to the Owen heater.

Ordered, that the Secretary write and ask if the Rome, Watertown and Ogdensburgh Railroad Company have complied with the recommendations of the Board in the Matter of J. W. Smith v. Rome, Watertown and Ogdensburgh Railroad Company, and if not, why not.

Commissioner Kernan offered the following:

*Resolved*, That Thomas W. Spencer, the inspector of the Board, be authorized to investigate and report to this Board as to the practical operations of improved methods of heating and lighting and ventilating steam passenger cars, and to attend such tests as may be made by railroads, and to report thereon to this Board. Carried.

Commissioner O'Donnell reported in the matter of the communication of W. T. Rockwood in relation to protection to brakemen on cars, that he has examined the description of a device referred to in the reported action of the Master Car Builders' convention, held at Saratoga Springs, June 12, 1884, and that he recommends that the following communication be sent the railroads of this State:

"From the liability of accidents occurring to brakemen falling between the ends of cars, the Board regards it as its duty to ask the views of the railroads of the State as to the question of whether or not it is practicable to provide a bridge or other device for all cars where brakes are operated from the top, which shall protect the brakemen from falling between the ends of the cars. An answer is requested within ten days."

Commissioner Kernan submitted a report in the matter of the bill relating to the Jamaica and Brooklyn Road Company. Adopted and ordered sent to committee with bill.

Board adjourned until March 2.

MARCH 2, 1887.

The Board met pursuant to adjournment. All present.

The Secretary submitted affidavits of William Richardson, president of the Atlantic Avenue Railroad Company, and Mr. Seymour, treasurer of the South Brooklyn Central Railroad Company, in the matter of the application of the Atlantic Avenue Railroad Company for increase of stock.

Commissioner Kernan submitted a report granting the application. Adopted and ordered issued; Commissioner O'Donnell not voting.

The Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

MARCH 8, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

The letter of M. F. Button, general freight agent of the Fonda, Johnstown and Gloversville Railroad Company, relative to Streeter complaint. Ordered, copy sent to Streeter Brothers with request to answer if the refunding was made.

Letter of F. L. Smith (Lackawanna and Pittsburgh Railroad Company), relative to complaint of citizens of Nunda. Ordered, that copy of letter be sent to Chauncey Hagedorn with draft of letter submitted by Commissioner Kernan.

Letter of L. H. Meyer, relative to Staten Island Rapid Transit Railroad Company. Ordered, that the complaint be sent to the Staten Island Rapid Transit Railroad Company.

Letter of F. D. Mather v. the Rome, Watertown and Ogdensburgh Railroad Company. Referred to Commissioner Kernan.

Commissioner Rogers called up the complaint of B. Thomas v. Twenty-third Street Railroad Company. Referred to Commissioner Kernan to examine.

Commissioner O'Donnell submitted a report as follows in the matter of the resolution referred to him relating to alleged unjust discrimination made by the railroads entering the city of Buffalo against the merchants, dealers and shippers of that city: That he had examined the reports made in answer to the resolution of the Board, and as the subject referred to relates to Inter-State Commerce, recommends that the papers in the case be referred to the Board of Inter-State Commerce Commission when appointed. Laid on the table.

The Secretary submitted a communication from the Attorney-General relative to cases referred to him by the Board. Referred to Commissioner O'Donnell.

Commissioner O'Donnell submitted a report on the above. Adopted and ordered issued.

Commissioner Kernan submitted a report in the matter of the bill relating to transfer tickets on the street railroads of New York city, referred to the Board by the Railroad Committee of the Assembly. Adopted; Commissioner O'Donnell dissenting, and announcing he would write a minority report.

Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

MARCH 15, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. Frank Emmons, President Staten Island Rapid Transit Company, in answer to complaint of L. H. Meyers. Ordered, that the matter be referred to Commissioner Kernan to draft a report submitting the questions raised to the Attorney-General for opinion, and that the Secretary inform the complainant that said questions had been so submitted.

Letter of C. M. Depew, President of New York Central and Hudson River Railroad Company, relative to complaint of W. B. Strong. Ordered, that complaint be dismissed, for reason that the question presented in the complaint has been exhaustively examined and adjudicated by the Board in the cases of J. E. H. Moore et al. v. New York and Harlem Railroad Company, and Milk Producers of America against said road (see pages 172, 190 and 213, Railroad Commissioners' Report, 1883, vol. 1), and because no additional facts are presented which justify the Board, on the complaint of a single person, in reopening the case.

Letter of J. M. Toucey, relative to accident at Rome. Ordered filed with the accident report to which it relates.

Letter of George A. Streeter & Brother, relative to complaint against Fonda, Johnstown and Gloversville Railroad Company. Referred to Commissioner Rogers.

Letter of Sherwood & Street, relative to automatic alarm and block-signal device. Ordered filed with papers on improvements, and Secretary write that the Board is not in the practice of making indorsements of devices used in railway operation.

The Board adjourned until Wednesday, March 16, 1887, 10 A. M.

MARCH 16, 1887—10 A. M.

The Board met pursuant to adjournment. All present.

Commissioner Kernan submitted a report in the matter of B. Thomas v. Twenty-third Street Railway Company. Laid over for further consideration, and Chairman directed to write a letter of inquiry to B. Thomas.

Commissioner O'Donnell called up his report on the complaint of residents of Buffalo, alleging discrimination, that it was a question of Inter-State Commerce, and advising its reference to the Inter-State Commerce Commissioners when appointed, and moved its adoption. Carried.

Commissioner Kernan offered the following:

WHEREAS, This Board, in accordance with the practice obtaining in this State prior to 1883, has heretofore received reports from lessee railroads in which the report of the operation of the lessor lines has not been made separate from that of the lessee's own lines; and:

WHEREAS, Question has been raised that such a report of the operation of the leased lines does not conform to chapter 844 of the Laws of 1869, as modified or affected by section 10, chapter 353, Laws of 1882, or any other legislation; therefore,

Resolved, That the Attorney-General be requested to furnish this Board with his opinion upon the question thus presented. Adopted.

Commissioner Kernan reported progress in the Matter of Citizens of Henrietta and Brighton against the West Shore Railway Company. Accepted.

Ordered, that George A. Streeter and M. F. Button (George A. Streeter & Brother v. Fonda, Johnstown and Gloversville Railroad Company), be summoned to appear Tuesday 10 A. M.

Commissioner Rogers introduced the following:

Resolved, That the Manhattan Elevated Railroad Company be recommended to immediately construct a strong railing at all places on the track-walk on the structure of the Elevated railroad where none exists now. Carried.

The Board adjourned until Monday, March 21, 1887, 3 P. M.

WILLIAM C. HUDSON,  
Secretary.

MARCH 21, 1887.

The Board met pursuant to adjournment. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of R. M. Galloway, relative to rails to protect track-walk, announcing compliance with recommendation of Board. Ordered filed.

Letter of Mayor Hewitt, accompanying complaint of C. Minor. Ordered, usual course.

Letter of Charles Parson, Jr., Vice-President Rome, Watertown and Ogdensburg Railroad Company, relative to complaint of J. D. Smith. Ordered, that papers be sent to Thos. W. Spencer, inspector, with instructions to examine the point, and report to the Board.

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Commissioner Kernan moved that Secretary write Rome, Watertown and Ogdensburgh Railroad Company, that the rates charged in the case of F. D. Mather, as compared with those from Youngstown, Ohio, are extravagantly high, and ask why the Board should not recommend that they be reduced. Carried.

Commissioner Kernan reported that on Wednesday and Thursday he went over the West Shore Railway with regard to complaint of citizens of Henrietta and Brighton.

Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

MARCH 29, 1887.

The board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule.

Letter of Charles Parsons, Jr., Vice-President Rome, Watertown and Ogdensburgh Railroad Company, relative to complaint of F. D. Mather, asking postponement. Granted two weeks.

Letter of board of health of Angola, relative to trestle and stagnant ponds, with message of secretary of the board of health that the local board of health had been advised that they had power in the matter of stagnant ponds.

Commissioner Rogers moved that so much of the complaint as relates to trestle be sent to the railroads, and the question asked why the railroads had not complied with the recommendations of the board of January 28, 1884, and the subsequent recommendations contained in the letter accompanying the inspector's report.

Also, that the inspector be required to visit the trestle and report upon the advisability of the guarded walk on the trestle.

Report of inspector in the matter of J. D. Smith v. Rome, Watertown and Ogdensburgh Railroad Company. Commissioner O'Donnell moved that the report be referred back to report on the condition of the culvert, its safety, its repair, and as to whether or not the water has undermined it.

Ordered, that the report of the Board on the bill providing for transfer tickets on surface street roads on Mahattan island be printed.

Assembly bills referred by the Railroad Committee of the Assembly for opinion. Laid on table for the present.

Commissioner Kernan submitted a report in the complaint of citizens of Brighton and Henrietta v. New York Central and Hudson River Railroad Company.

After amendment adopted and ordered printed and issued.

Letter of Lewis Lyon, President Third Avenue Railroad Company. Ordered, that Secretary write that the Board desires to know what change is to be made in gauging the guard-rail when the work of paving is completed.

Ordered, that the bill relative to inspection of elevated railroad structures be referred to Commissioner Kernan for report.

Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

APRIL 5, 1887.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business as follows:

The bill (No. 285), entitled "An act in relation to the rails of street surface railroads in cities of this State." Hearing set down for Monday, April 11, 3 P. M.

Letter of D. W. Caldwell, Receiver of the New York, Chicago and St. Louis Railway Company, relative to complaint of the board of health of Angola. Laid on table until the report of Inspector is received.

Letter of Alfred Lazarus (Third Avenue Railroad Company), relative to complaint of Mayor of New York and C. Minor. Laid over one week.

Letter of Alfred Pell, relative to Cranston's crossing signal. Ordered, copy sent to the General Manager of the West Shore Railway Company.

Petition of residents of Silver Springs, Wyoming county. Usual course.

Commissioner Rogers presented a report in the Matter of George A. Streeter & Bro. v. Fonda, Johnstown and Gloversville Railroad Company. Laid over one week.

Commissioner Kernan submitted a report on the Assembly bill, introductory No. 673 referred to him. Adopted and ordered issued.

Commissioner Kernan submitted a report on Assembly bill No. 758, referred to him. Adopted and ordered issued.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*



## MINUTES OF THE BOARD.

APRIL 11, 1887.

Roll called at 3 P. M. Present—Commissioner Rogers.

Commissioner Rogers announced to Assemblyman Shea and Messrs. W. C. Trull, Scribner, Cummins, Connor, Skitt, Richardson, Lewis and Thompson, that Commissioners Kernan and O'Donnell were detained by the freshet in the Mohawk valley, and submitted the question as to whether the hearing on the Assembly bill providing for tram or grooved rails in New York and Brooklyn should proceed before him, or should be postponed until the other members were present. A full Board being desired, a postponement was taken until the 12th inst., 9.30 A. M.

APRIL 12, 1887—9.30 A. M.

The Board met pursuant to adjournment. Present—Commissioners Rogers and O'Donnell.

Commissioner Rogers in the chair.

Commissioner Rogers announced that Commissioner Kernan was still detained by the flood, and the board determined that the hearing should proceed.

Messrs. Assemblymen Shea, Ives, McIntyre, Sullivan and Langbein appeared for the bill, and Messrs. Trull, Scribner, Cummins, Richardson, Skitt, Robinson and Connors in opposition.

Adjourned until the 13th inst., 10 A. M.

APRIL 13, 1887—10 A. M.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Commissioner Rogers offered a report upon the bill relating to rails of street railroads in cities of New York and Brooklyn.

The question of its adoption having been submitted to vote, the record was as follows:

Commissioner Rogers, aye. Commissioner Kernan voting aye, as concurring in the conclusion except as to the 10 per cent recommendation, and as to that filed a memorandum to accompany the report. Commissioner O'Donnell voting aye, as concurring generally in the report, but objecting to the conclusions and the statute, and filing a minority report.

All of which were ordered sent to the Assembly Railroad Committee, at its next meeting.

The Secretary submitted the unfinished business, under the rule, as follows:

Report of the inspector in the Matter of J. D. Smith v. Rome, Watertown and Ogdensburg Railroad Company. Referred to Commissioner O'Donnell.

Report of the inspector as to the condition of the trestle at Angola, in the Matter of the Complaint of the Board of Health of Angola v. New York, Chicago and St. Louis, and Buffalo, New York and Philadelphia Railroad Companies.

Commissioner Rogers moved that copies of the report be sent to the companies complained of and that the Secretary inquire why the suggestions contained in the report should not be recommended by the Board.

Letter of Charles Parsons, Jr., to Board, and I. F. Maynard to Vice-President Parsons, relative to the complaint of F. D. Mather.

Commissioner Kernan moved that the Secretary write the company making inquiry as to what are the principles and facts claimed by the company to be taken into consideration in determining whether the rates in the case complained of are reasonable or not.

Letter of Caleb M. Landers, relative to recommendations of the Board in the Matter of the petition of citizens of Henrietta and Brighton v. West Shore Railway Company.

Commissioner Kernan moved that the Secretary write that the Board knows of no appeal that can be taken; that its decision was a recommendation that the company should run the local freight train on time according to the time-table. If this is not done the Board desires to advise it of its failure to do so. Also to write the company that the Board requests that the local agent at Henrietta be instructed to keep a record of the time made by the local freight.

Letters of R. C. Yates (Silver Creek Railroad Company) and John King (New York, Lake Erie and Western Railroad Company), relative to complaint of dangerous crossing by citizens of Silver Springs. Ordered sent to complainants with request that the Board be informed within reasonable time as to whether the promise made has been fulfilled.

The Board adjourned.

WILLIAM C. HUDSON,

Secretary.

APRIL 19, 1887.

The Board met pursuant to rule. Present—Commissioners Rogers and O'Donnell.

Commissioner O'Donnell in the chair.

The minutes were read and approved.

A telegram was received from Commissioner Kernan announcing his detention by reason of a washout.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. E. Childs, relative to Oneida crossing. Ordered, that a copy of the letter be sent complainant and letter be filed.

Letter of H. C. Trout, of Buffalo, relative to classification of freight. Ordered, that Secretary write and ask what road is complained of and to what point the shipments giving rise to complaints were made; that if to points outside of State of New York, that the matter should be laid before the Inter-State Commerce Commissioners.

Letter of William E. Delaney, city clerk of Buffalo, communicating a resolution inviting the Board to inspect the railroad crossings in the city of Buffalo.

Commissioner O'Donnell submitted a report in the matter of the Buffalo crossings, which was accepted and ordered filed.

Commissioner Kernan moved that the Secretary write to city clerk of Buffalo and say that until the Legislature adjourns the Board will have to be ready at all times to attend to matters coming before it from the Legislature, and hence can at no time be certain of fulfilling any appointment made to investigate at Buffalo. In view of this fact and of the time that will probably be required in making such investigation in Buffalo, the Board will hold the matter to be investigated and disposed of immediately after the Legislature adjourns and bills referred to this Board by the Governor are disposed of, unless there are urgent reasons for greater haste. Carried.

Board adjourned,

WILLIAM C. HUDSON,  
*Secretary.*

APRIL 26, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of C. M. Landers, relative to petition of citizens of Henrietta and Brighton. Referred to Commissioner Kernan.

The application in the matter for an increase of capital stock of the Buffalo, Rochester and Pittsburgh Railroad Company, for a designation paper. Order granted.

Letter of L. H. Meyer, relative to chap. 844, Laws of 1886. Ordered, that Secretary write and say that the matter is in the hands of the Attorney-General; that the Board has inquired as to his opinion several times; as soon as received the Board will take action.

Letter of H. C. Trout, as to rates on the New York Central Railroad, being a complaint. Ordered, usual course.

Letter of Lewis Lyon, with drawings, being answer of Cable road to complaint of H. Minor. Referred to Commissioner Kernan.

Letters of Major Zenas C. Priest, Division Superintendent, and Major Brown, Section Foreman, in relation to accident on New York Central and Hudson River Railroad, near St. Johnsville, on April 19, and Joseph Bradfield, Division Superintendent, James Shandley and Robert Brock, Roadmasters of West Shore Railway, in relation to the accident on said road April 19th, were heard before Commissioner Rogers.

Commissioner Kernan reported in the matter of Caleb Landers, by letter, which was ordered sent.

Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

MAY 3, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of W. S. Keyes, agent of West Shore Railway Company at Brighton. Ordered filed.

Application of Rochester and Lake Ontario Railroad Company to be relieved from making quarterly reports. Granted. Ayes—Commissioners Kernan and Rogers; Commissioner O'Donnell not voting.

Complaint of A. T. Andre et al. v. Geneva, Ithaca and Sayre Railroad Company. Ordered, usual course.

Letter of W. D. Mann. Ordered, that Secretary write that Board would be glad to accept the invitation, but is so placed that at present it is impossible to set a date, but will do so as soon as possible.

Ordered, that Secretary inquire of Rome, Watertown and Ogdensburgh Railroad Company, what the headway is at St. Paul street crossing, and send a circular.

Bill of T. W. Spencer, for traveling expenses for five months. Approved.

Commissioner Rogers submitted a report in the matter of the accident on the New

York Central and Hudson River Railroad, near St. Johnsville, April 19. Adopted, and ordered issued.

Commissioner Rogers submitted a report in the matter of the accident on the West Shore Railway, April 19. Adopted, and ordered issued.

Commissioner Kernan submitted a report in the matter of *C. Minor v. Third Avenue Railroad Company*, as to cable cars. Adopted, ordered issued.

Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

### MAY 10, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter from the Third Avenue Railroad Company, announcing compliance with the recommendations of the Board in the matter of guards on the cable cars. Ordered filed.

Letter of trustees of village of Tonawanda, requesting visit of Board as to crossings. Ordered, that the Secretary write and say that the Board will visit Tonawanda when it visits Buffalo.

Letter of George E. Merchant, relative to car couplers. Ordered, that the Secretary send Mr. Merchant decision of the Board on couplers, and also that he draft and submit a circular directing roads to inform the Board by July 1st how many cars are equipped with automatic couplers, what patterns, and report as to the practical workings of same.

Letter of L. Hasbrouck, of the Ogdensburgh and Lake Champlain Division of the Central Vermont Railroad Company, asking for extension of time to May 30 to file quarterly report. Ordered granted, in this instance, but hereafter the rule of the Board must be complied with.

The Secretary submitted the bill of Weed, Parsons & Co., for \$3,092.71, for printing the Annual Report. Ordered approved.

Ordered, that cases 303, 309, 311, 312, 319, 321, 322, 324, 333 and 340 be closed; that cases 297, 344 and 347 be laid over for the present; that the Secretary demand answers in 277, 337 and 342.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

### MAY 17, 1887.

The Board met pursuant to rule.

Commissioner Rogers presented his commission from the Governor, certifying to his appointment and confirmation by the Senate to succeed John O'Donnell, term expired, and announced that he had taken the prescribed constitutional oath of office.

The Chairman directed the calling of the roll.

Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Board heard Senators Low and Connolly, Messrs. Charles L. Richardson and J. Monroe Tower, ex-Assemblymen Otis and Hopkins and others, in favor of and in opposition to Senate bill No. 409, entitled "An act in relation to railroads," referred to the Board by the Governor for opinion.

Commissioner Kernan submitted a report in the matter of bill No. 409, referred by the Governor. Adopted, and ordered sent to the Governor.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Messrs. Angell and Spellman, relative to the complaint of Citizens of Champlain v. The Vermont Central Railroad Company, and the Delaware and Hudson Canal Company. Referred to Commissioner Baker.

Complaint of citizens of the village of Carthage. Ordered, usual course.

Letter of Bradford Snyder, relative to his complaint against the Elmira, Cortland and Northern Railroad Company. Referred to Commissioner Kernan.

Application of Brooklyn City Railroad Company, to designate a paper to publish notice of stockholders' meeting, in the matter of an application to increase the capital stock to \$1,200,000. Ordered, that E. B. Hastings be instructed to visit the offices of the company, and ascertain the amount expended for construction, and to carry the examination of the finances of the road forward from the date of the last examination of the Board to the present date.

Letter of Thomas E. Merritt, relative to coupler. Ordered, that the Secretary write and say that the report is made for the information of the Commissioners, and it has not been the habit of the Board to send out copies of such reports.

Bill of Mr. Speir for type-writer. Ordered approved at \$52.95.

Ordered, that Secretary be authorized to enter into a contract with Weed, Parsons & Co., to print the Annual Report for the year ending September 30, 1887, upon the same terms as that for printing report for the year ending September 30, 1886.

Letter of C. L. Landers. Referred to the Secretary to take such action as he deems proper.

Resolution from the Senate relative to inter-State Commerce law. Ordered placed on file.

The Board heard Senator Kellogg and Assemblyman Weed on the bill entitled "An act for the relief of the Chateaugay Railroad Company," referred by the Governor to the Board for opinion.

Commissioner Kernan submitted a report in the matter of the bill entitled "An act for the relief of the Chateaugay Railroad Company." Adopted and ordered sent to the Governor with the bill.

Board adjourned.

WILLIAM C. HUDSON.

*Secretary.*

### MAY 31, 1887.

The Board met pursuant to rule.

Commissioner Baker presented his commission from the Governor, certifying to his appointment and confirmation by the Senate to succeed William E. Rogers, appointed to succeed John O'Donnell, and announced that he had taken the prescribed constitutional oath of office; further announcing that he had been deterred from presenting his commission earlier by the duties consequent upon turning over the Prison Department to his successor.

The Chairman ordered the roll to be called. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows,

Letter of J. M. Toucey (New York Central and Hudson River Railroad Company), relative to Syracuse depot. Ordered, copy sent to ex-Commissioner O'Donnell.

Letter of D. W. Caldwell, Receiver of the New York, Chicago and St. Louis Railroad Company, relative to trestle at Angola. Ordered, copy be sent to Buffalo, New York and Philadelphia Railroad Company with request to answer.

Letter of Theodore D. Dimon, relative to petition of citizens of Brooklyn against dumplings on Third avenue. Ordered, that Secretary write to D. F. Lewis, President Brooklyn City Railroad company, that the Board desires to have a specific answer to the petition preferred November 19, 1886.

Letter of J. D. Layng (West Shore Railway Company), relative to complaint of Stephen T. Hopkins. Ordered, that a copy be sent to complainant with the request that he will with some particularity point out the defects in the crossing.

Letter of C. Minor, relative to guards on the One-hundred and Twenty-fifth street cable cars. Ordered to lay over.

Letter of Austin Corbin, relative to road across Jamaica Bay. Ordered filed with inspection papers.

Letter of C. F. Dunning, clerk of board of supervisors of Orange county, N. Y. Ordered, that Secretary write Presidents of the New York, Lake Erie and Western Railroad Company, and the Lehigh and Hudson River Railroad Company, what, if any, action is to be taken in the Greycourt depot matter.

Letter of Charles Parsons, President of Rome, Watertown and Ogdensburg Railroad Company. Ordered filed.

Letter of J. B. Robinson, Bloomsburg, Penn., inquiring as to the relation of the Syracuse, Binghamton and New York Railroad Company to the Delaware, Lackawanna and Western Railroad Company. Ordered, that Secretary write and say that there is nothing in this office to indicate the relations existing between the two roads further than that the officers of one company are the officers of the other. The Syracuse, Binghamton and New York company makes a full and individual report to the Board. There are no indications of a lease or contract between the companies. Were there such a lease the reports would show it—the Delaware, Lackawanna and Western Railroad Company as the lessee, and the Syracuse, Binghamton and New York Railroad Company, as the lessor; whereas the Syracuse, Binghamton and New York Railroad Company reports as an operating company.

Letter of Buffalo Lumber Exchange, relative to the Board's visit to Buffalo, on the crossings. Ordered, that the hearing for the same be set down for Buffalo, June 7, 1887, 10 A. M.

The Secretary reported that he had entered, for the Board, into a contract with Weed, Parsons & Co., for the printing of the report for the year ending September 30, 1887.

Commissioner Baker moved that the action of the Secretary in approving the bill of Timothy Dyson for \$100, for furnishing manuscript copies of bills relating to railroads, when introduced, be approved. Carried.

The Secretary submitted the report of E. B. Hastings, acting accountant, of his examination into the accounts of the Brooklyn City Railroad Company.

Also, complaint of Mr. Abbott, and answer of New York, New Haven and Hartford Railroad Company in relation thereto. Ordered, usual course, and matter referred to Commissioner Kernan.

Petition of highway commissioners and supervisors of the town of Ithaca, for relief

from Elmira, Cortland and Northern Railroad Company. Ordered, usual course, and matter referred to Commissioner Kernan.

Ordered, that the Board adjourn to meet at the Genesee Hotel, Buffalo, Monday, June 6, 8 P. M.

WILLIAM C. HUDSON.

*Secretary.*

### JUNE 6, 1887.

The Board met, pursuant to adjournment, at city of Buffalo. All present.

The reading of the minutes of the last meeting was dispensed with.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of D. F. Lewis, President Brooklyn City Railroad Company, relative to complaint of residents of Brooklyn. Ordered, that the Secretary write and say that such further time as was needed would be granted. Also, to complainants asking what, if any, arrangement was pending, and what action, if any, had been taken.

Answer of the Carthage and Adirondack Railroad Company, to complaint of village authorities of Carthage. Ordered, usual course.

Complaint of John C. Jay, Jr., v. Sixth Avenue Railroad Company, and the answer of the Sixth Avenue Railroad Company thereto. Ordered, that the Secretary write to complainant that the answer of the company seems to be satisfactory, and that the Board does not see how, under the circumstances as stated, those occasional inconveniences are to be avoided.

Letter of Isaac H. Cotanch v. Elmira, Cortland and Northern Railroad Company, relative to defective fences. Ordered, usual course.

Letter of Edward A. Mosely, Secretary of Inter-State Commerce Commission. Ordered, that the Secretary write and say that a reference to all the cases involving the points mentioned in his letter, discussed by the Board, had been given to Commissioner Schoonmaker.

Letter of Mann Boudoir Car Company, inviting the Board to inspect system of ventilation. Ordered, that the Secretary write and say that the Board will be in New York on the 22d inst., and at that time will devote the hours between ten A. M. and two o'clock P. M.

Letter of Walter H. Cummings, Silver Springs, relative to petition for protection of dangerous crossing on the New York, Lake Erie and Western Railroad. Ordered, laid over.

Letter of A. Gorham, Auditor Fitchburg Railroad Company. Ordered, that Secretary write and say that a report from the Boston, Hoosac Tunnel and Western Railroad Company, up to and including May 31, 1887, and one from the Fitchburg Railroad Company, from June 1 to September 30, 1887, inclusive, will be required.

Complaint of John J. Gubet, etc. Referred to Commissioner Baker.

Letter of C. Minor relative to guards on One Hundred and Twenty-fifth street Cable cars. Ordered, that the Secretary write and ask why guards have not been put on cars, as recommended by the Board, and as promised by the company, and inform the Board. Also, to insure that steps have been taken to compel compliance.

Letter of E. P. Tyson, relative to baggage checking on the Staten Island Railroad. Ordered, that the Secretary write to the road, and ask if any arrangements have been made to check baggage.

Letter of F. K. Hain (Manhattan Elevated Railroad Company). Ordered, that the Secretary write and ask if an additional flagman had been placed at Chatham Square.

### NEW BUSINESS.

Application of Kinderhook, Valatie and Niverville Railroad Company, for designation of paper in which to publish notice of shareholders' meeting, to consider a proposition to increase the capital stock from \$50,000 to \$150,000. Ordered, paper be designated.

The bill of the National Express Company, for \$141.88. Ordered approved.

The bill of the American Express Company, for \$150.60. Ordered approved.

The Board took a recess until June 7, 10 A. M.

### JUNE 7, 1887—10 A. M.

The Board met in session at City Hall, Buffalo.

Heard Aldermen Partridge and Schieu, on behalf of the city authorities; George Clinton, J. Scatchard and others on behalf of the Lumber Exchange; Congressman Weber, Jacob Hurns and others, on behalf of citizens, and Senator McMillan on behalf of the railroads, in the matter of street crossings in Buffalo, and at the conclusion of the hearing inspected the crossings.

The Board adjourned to meet in New York city on 21st inst.

WILLIAM C. HUDSON,

*Secretary.*

## MINUTES OF THE BOARD.

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JUNE 21, 1887.

The Board met in New York city, pursuant to adjournment. All present.

The minutes of the last meetings were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of residents of Silver Springs, notifying the Board that the promises of the New York, Lake Erie and Western Railroad Company to place an electric bell at the Silver Springs crossing had not been performed. Ordered, that the Secretary write to said company, asking why the bell had not been put up in accordance with the promise of date of April 11.

Letters of Grinnell Burt, President of the Lehigh and Hudson River Railroad Company, and John King, President of the New York, Lake Erie and Western Railroad Company, relative to the station at Greycourt. Ordered, that the Secretary send a copy of Burt's letter to the New York, Lake Erie and Western Railroad Company, and say that the Board trusts there will be no further delay in the matter.

Reply of the authorities of the village of Carthage to answer of the Carthage and Adirondack Railroad Company. Referred to Commissioner Kernan.

Answer of the New York Central and Hudson River Railroad Company to complaint of H. C. Trout. Ordered usual course.

The papers in the matter of the application for an increase of the capital stock of the Brooklyn City Railroad Company, from \$2,000,000 to \$3,200,000. Commissioner Kernan submitted a report, approving the increase and moved its adoption. Carried.

Letter of F. S. Gannon (Staten Island Railroad Company), relative to the checking of baggage on that road. Ordered that a copy be sent to E. P. Tyson, complainant.

Letter of T. D. Dimon, in the Matter of Hopper et al. v. Brooklyn City Railroad Company, withdrawing the complaint in the above matter. Case ordered closed.

Letter of Lewis Lyon, relative to Cable car guards on One Hundred and Twenty-fifth street. Ordered filed, and a copy sent to the complainant.

Letter of F. K. Hain (Manhattan Elevated Railway Company), relative to additional flagmen at Chatham Square. Ordered filed.

Letter of W. D. Mann, relative to the system of ventilation employed by the Mann Boudoir Car Company.

The papers in the matter of the application of the Buffalo, Rochester and Pittsburgh Railroad Company, for an increase of capital. Ordered, that the acting accountant proceed in the usual manner to examine the finances of the road and ascertain the cost of construction, etc.

Letter of Stephen T. Hopkins, relative to his complaint against the West Shore Railway Company. Ordered, that the Secretary write, saying that the Board are informed that the recommendation that the crossing on the road in the town of Catskill, from Saugerties to Swamp road, be properly filled on the east side and raising made on the west side, are not complied with, and that the Board renews the recommendation.

Ordered, that the Secretary write to F. D. Mather, as to whether any thing has been done in refunding excessive charges, in accordance with the admission of the road of date of April 15.

Ordered, that the Secretary write that no answer has been received from the Rome, Watertown and Ogdensburgh Railroad Company, in reply to the letter of the Board of date of April 15.

Letter of the Illinois Railroad Company and Storehouse Commission, inquiring as to the maximum rates on passengers and freights. Ordered, referred to the Secretary to answer.

Letter of Mr. Hardt, relative to bridge. Ordered, that he be requested to send immediately the heaviest weight girders will be subjected to.

Letter of G. J. Penfield, asking powers of the Board in the matter of establishing station houses. Ordered, that a copy of the Hamburg decision be sent and be told that the Board can recommend but cannot enforce its recommendation.

Commissioner Kernan offered the following:

*Resolved*, That the local authorities of North Tonawanda should present to railroads crossing its streets a statement of the grievances complained of, and in case the railroads fail to remedy the same within a reasonable time, such matter will be, upon the Board being so advised, further investigated and determined by the Board. Carried.

*Resolved*, That Thomas W. Spencer, the Inspector of this Board, be directed to prepare and furnish to the Board, with all convenient speed, maps and profiles showing the railroad street crossings in the city of Buffalo, together with track connections with manufacturing and business places; and also to submit therewith a report showing how far it is practicable to carry any of such grade crossings over or under the said tracks, or in what other way relief can be had with due regard to all interests involved, together with an estimate of the expense of such work; further

*Resolved*, That said inspector be directed to confer with the local and railroad authorities interested, and to transmit with his report any suggestions or plans proposed by them for the remedying of the evils complained of; further

*Resolved*, That the local authorities of Buffalo and the different railroads interested in the question are requested to co-operate with and aid the inspector of this Board in the work hereby directed to be done by him. Carried.

Adjourned.



## MINUTES OF THE BOARD.

JUNE 23, 1887.

The Board met in Albany to consider bills referred to it by the Governor as follows:

Bill entitled "An act conferring certain powers upon the department of public parks in the city of New York relative to the Twenty-third and Twenty-fourth wards in said city."

Bill entitled "An act to amend chapter 135 of the Laws of 1870, entitled 'An act for the relief of corporations organized under general laws.'"

Bill entitled "An act to amend chapter 606 of the Laws of 1875, entitled 'An act further to provide for the construction and operation of a steam railway or railways in the counties of the State.'"

Bill entitled "An act to amend chapter 140 of the Laws of 1850, entitled, 'An act to authorize the formation of railroad corporations and to regulate the same.'"

Bill entitled "An act to amend chapter 391, Laws of 1880, entitled 'An act to amend the act entitled 'An act incorporating the New York Northern Railroad Company,' passed April 28, 1886."

Adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

JUNE 28, 1887.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letters from T. W. Spencer, inspector, relative to the Buffalo street crossings. Ordered, that the subject of the Buffalo street crossings be referred to Commissioner Rogers, with power to direct the work to be done by Inspector Spencer.

Letter of the Lehigh Valley Railroad Company, relative to complaint of A. T. Andre. Ordered sent to complainant.

Letter of F. D. Mather, relative to complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Ordered filed.

Letter of Austin Corbin, President Elmira, Cortland and Northern Railroad Company, relative to various complaints against said company. Referred to Commissioner Kernan.

Letter of H. C. Anthony, relative to alleged discrimination in rates of hay on the Rome, Watertown and Ogdensburgh railroad. Ordered, that Secretary write Mr. Moore, General Freight Agent, stating the facts communicated, and asking if true, and if so, why so.

Letter of J. D. Brownell, of Silver Springs, as to crossing on the New York, Lake Erie and Western railroad. Ordered, held on file.

Letter of W. D. Mann, relative to system of ventilation on Mann Boudoir cars. Ordered, that he be informed that the inspector will probably make the trip in winter, when he can inspect the system of heating as well. Also to say that the Board was much pleased with the method of ventilation adopted by the company, namely: the introduction of fresh air—cleansing, heating and thence transmitting it into the car—this system being in accordance with the principle constantly recommended by the Board. The adaptation of your system to the cooling of air in hot weather, by passing it over ice is a great amelioration of the discomforts of travel in summer, and is well worthy of consideration by all drawing-room car companies.

Letter of J. L. Valentine, Treasurer Central Park, North and East River Railroad Company, relative to the charging of several items to various accounts. Referred to Commissioner Rogers.

Letter of M. M. Dye, relative to dangerous crossing at Allegany. Ordered, that Secretary write and say, that inasmuch as proceedings have been instituted under chapter 439, Laws of 1884, it would seem that these proceedings should be first determined, before this Board acts, unless there is excessive delay therein.

Letter of E. W. Leavenworth, relative to the failure of trains of the New York, Lake Erie and Western Railroad Company and the Delaware, Lackawanna and Western Railroad Company at Binghamton. Ordered, that the Secretary write to the Delaware, Lackawanna and Western Railroad Company and to the New York, Lake Erie and Western Railroad Company, asking why the connections could not be made.

Commissioner Baker moved that when the Board adjourn, it adjourn until July 12th, at 10 A. M. Carried.

Commissioner Rogers reported on the letter of J. L. Valentine, Treasurer Central Park, North and East River Railroad Company, by letter. Adopted, and ordered sent.

The Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*



## MINUTES OF THE BOARD.

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JULY 12, 1887.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter from C. Clinton Gardner, receiver Buffalo, New York and Philadelphia Railroad Company, relative to complaint of the village of Angola. Ordered, copy sent to complainants and they be ordered to notify the Board after reasonable time whether promise performed.

Letter of Bradford Snyder, relative to Board's inspection of the Elmira, Cortland and Northern railroad. Ordered, that company be notified that Board will stop at Etna.

Letter of L. A. Emmons, General Traffic Manager, Rome, Watertown and Ogdensburg Railroad Company. Ordered, copy sent to complainants.

Letter of F. F. Chambers, Secretary Delaware, Lackawanna and Western Railroad Company, and John King, New York, Lake Erie and Western Railroad Company. Ordered laid on table.

Letter of F. L. Knapp, complaint as to dangerous crossing at Gasport. Ordered usual course.

Letter of J. D. Brownell, relative to the signal at Silver Springs. Ordered, that President King's attention (New York, Lake Erie and Western Railroad Company) be called to the failure to erect a signal and to Mr. Brownell that Mr. King has been written to several times; that under the decision of the Court of Appeals, the Board is powerless and can only accomplish results in such matters by persistent urgency; that under chapter 439, Laws of 1884, remedy may be secured.

Opinion of the Attorney-General on the question raised as to chapter 844, Laws of 1869.

Commissioner Rogers moved that a copy of the opinion, together with the letters of L. H. Meyer, be sent to the Staten Island Rapid Transit Company, and that the company be cited to show cause on September 13th why it should not make a separate report of its leased lines. Also, that L. H. Meyer be notified of the same. Carried.

Commissioner Kernan moved that a copy of the opinion of the Attorney-General be sent to all the railroad companies of the State, and that they be notified to show reasons either in person or by letter, on September 13th, why the Board should exempt lessee lines from making reports of lessor lines, showing the operation of lessor lines separate from reports of such lessee's other lines. Carried.

Letter of Fall Brook Coal Company, relative to girder bridge, and report of Engineer Stowell on the same. Ordered, that Secretary write that the Board deems the girder bridge referred to, if properly riveted, sufficient.

Commissioner Kernan submitted a report in the matter of William Abbott v. New York, New Haven and Hartford Railroad Company. Adopted, ordered printed and issued.

Telegram of George F. Wilson, relative to strike on the Brooklyn Elevated Railway.

Commissioner Rogers moved that Secretary write that the Board is informed that trains are being run without due regard for safety; that the Board takes occasion to urge upon the company to exercise the utmost care with regard to the running of cars, pending the present disturbances. Carried.

### NEW BUSINESS.

Complaint of the village and town of Lewiston. Ordered usual course.

Complaint of Smith & Penfield, relative to freight rates on New York, Ontario and Western railroad. Ordered, that the Secretary write and say that if they will make explicit complaint, alleging that the rates have been excessive or higher since the Inter-State Commerce Law went into effect, the Board will investigate.

Ordered approved, the bill of Thomas W. Spencer of \$43.56, for expenses in Buffalo crossing matter.

Ordered approved, the bill of Thomas W. Spencer, expenses incurred in Buffalo crossing matter, \$114.77.

Ordered approved, yearly bill of Thomas W. Cowell, for stationery, etc., \$461.25.

Ordered approved, bill National Express Company, \$77.15.

Ordered approved, bill of American Express Company, \$67.05.

The Board adjourned until July 26th, at 10 A. M.

WILLIAM C. HUDSON,  
Secretary.

JULY 26, 1887.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Charles Parsons, Jr., Vice-President of the Rome, Watertown and Ogdensburg Railroad Company, asking extension of time in which to answer complaint of village board of Lewiston. Granted.

Letter of the same, relative to complaint of F. D. Mather. Laid over.

Letter of W. H. Ward, relative to improvements. Ordered filed with improvements.

Letter of Lawrence A. Sneden, relative to whistle blowing on New York and New Jersey railroad. Ordered usual course.

Letter of W. H. Burnes, General Manager Buffalo and Utica Railroad Company, relative to bridge guards and sending blue print of same. Referred to Commissioner Rogers.

Letter of C. Miner, relative to guards on cars of One Hundred and Twenty-fifth street. Referred to Commissioner Kernan.

Letter of C. W. Larkey, relative to crossings at Middleport. Referred to chapter 439, Laws of 1884.

Letter of John King, President New York, Lake Erie and Western Railroad Company, relative to station at Graycourt. Ordered copy sent to complainants.

Letter of Selzer & Bending, relative to car heating. Ordered filed with improvements, and write Board cannot recommend devices, but advises that they bring their device before railroad companies for practical experiment and then send result to Board.

Letter of William Watson, relative to Thompson's station. Ordered filed.

Letter of Elmer A. White, relative to car heating. Order filed with improvements.

Letter of Hamilton S. Peck, relative to chapter 618, Laws of 1887. Ordered, Secretary write that Board considers that section 4 refers to the provisions of section 2. As that section originally read it covered a number of devices—floor systems, bridge guards, etc., but the section was amended without corresponding amendments to section 4, hence the use of words in section 4 which can have little reference to section 2.

Letter of Rote Automatic Brake Company. Ordered filed.

Letter of Brooklyn Elevated Railroad Company, relative to strike. Ordered filed.

Letter of August R. Wilcken, relative to Brooklyn, Bath and West End Railroad Company. Ordered, Secretary write that if Mr. Wilcken will make written complaint as to dangerous condition and other matters properly within the jurisdiction of the Board, it will, if justified, have hearing thereupon.

Commissioner Kernan submitted a report in the matter of the complaints against Elmira, Northern and Cortland Railroad Company. Adopted, and ordered printed and issued.

Commissioner Kernan submitted a report on the accident occurring on the Rome, Watertown and Ogdensburg railroad, north of Glendale, July 16, 1887. Adopted, and ordered printed and issued.

Commissioner Baker submitted a report in the matter of the village of Champlain against the Delaware and Hudson Canal Company and the Lake Champlain and Ogdensburg division of the Central Vermont Railroad Company.

The Secretary submitted the report of the acting accountant of his examination in the matter of the application of the Buffalo, Rochester and Pittsburgh Railroad Company for an increase of capital stock. Ordered, that a copy of the report be sent to the company, and that it be written that, before determining upon the report of the acting accountant, the Board will give the company further opportunity to be heard in this matter, either on the 2d of August, if speedy action is required, or on the 20th of September, if that would be satisfactory, and inform the Board which it prefers, after which Secretary notify parties in accordance with information received.

The Secretary submitted the report of T. W. Spencer, inspector, in the matter of the Buffalo railroad crossings, with maps and tracings, etc. Ordered, that Secretary have the maps and tracings copied and the reports printed; that the maps and tracings be placed on file in the office of the city clerk at Buffalo and in the office of the Board at Albany, for thirty days, for inspection; that copies of the report be sent to companies and parties interested, and the companies be written to in accordance with draft on file, with papers relating to the case.

The Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

#### AUGUST 2, 1887.

The Board met pursuant to rule. Present, Commissioners Kernan and Baker.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule as follows:

Complaint of Philetus W. Larry against Canastota Northern Railroad Company. Ordered usual course.

Letter of Walter H. Brown, Buffalo, Rochester and Pittsburgh Railroad Company, relative to hearing upon application for increase of capital stock, making 20th of September the date. Ordered filed.

Answer of New York and New Jersey Railroad Company, to complaint of Lawrence A. Sneden. Usual course.

Letter of L. H. Emmons, General Traffic Manager of Rome, Watertown and Ogdensburg Railroad Company, in matter of F. D. Mather against said road. Referred to Commissioner Baker.

Letter of Frank K. Baxter, relative to map of New York Central and Hudson River railroad in town of Herkimer. Ordered usual course and Secretary write that Board desires to know why the information therein requested is not furnished; that it seems

to the Board that the village has a right to it, unless there be some reason which prevents it, which makes it improper.

Letter of J. M. Toucey, General Superintendent New York Central and Hudson River railroad, asking to be relieved from provisions of section 2, chapter 616, Laws of 1887. Ordered that Secretary write and say that Board has not power to relieve it from such provisions; unless Mr. Toucey can satisfy to the contrary it cannot comply with his request.

Commissioner Baker moved that Mr. Spencer's request for a week's vacation be granted. Carried.

Ordered, that when the Board adjourn, it adjourn until September 13.

Board adjourned.

WILLIAM C. HUDSON,  
*Secretary.*

### SEPTEMBER 13, 1887.

The Board met pursuant to adjournment. All present.

The Board heard Hon. D. H. McMillan, counsel for New York Central and Hudson River Railroad Company; Norris Morey, Esq., for New York, Lake Erie and Western Railroad Company; Franklin D. Locke, Buffalo, New York and Philadelphia Railroad Company; George Clinton, J. N. Seathard and B. Holmes, for Lumber Exchange; Corporation Counsel Worthington and Ald, Partridge, for city of Buffalo; Robert P. Adams, Merchants' Exchange; Congressman Weber and others in the matter of the Buffalo Street railroad crossings.

Also, Hon. Hamilton Harris for the New York Central and Hudson River Railroad Company; J. W. Reinhardt, Rome, Watertown and Ogdensburg Railroad Company; A. H. Steele and Vice-President Donaldson, New York, Lake Erie and Western Railroad Company; P. W. Pratt for Staten Island Rapid Transit, and L. H. Meyer, for himself, in the matter of separate reports of the operation of leased lines.

Minutes of last meeting were read and approved.

The Secretary submitted the unfinished business under the rule as follows:

Letters of Freedleben, of Wakefield, N. Y., asking that the authority of the Board be exercised toward the establishment of a station at the junction of the Harlem road and New York, New Haven and Hartford, near and above Woodhaven. Ordered that copies of the letters be sent to the companies mentioned therein, requesting them to answer as to whether they contemplate erecting a station at the point indicated, and if not, why not.

Application of the New York City and Westchester Railroad Company for designation of paper in which to advertise the meeting of stockholders to consider the proposition to mortgage property for \$100,000.

Also application of Carthage and Adirondack Railway Company to mortgage property for \$2,000,000.

Also, application of Staten Island Belt Line Railroad Company for \$200,000.

Also, application of People's Railroad Company of Syracuse.

Also, application of Brooklyn City and Newtown railroad for \$1,500,000.

Ordered that action of the Secretary in designating the papers during recess of Board, be confirmed and approved.

Letter of Charles Smith, relative to the McAlvey crossing. Ordered letter sent to the company, and that the company be asked why it has not conformed to the recommendations of the Board.

Letter of Lawrence A. Sneden, accompanied by a petition. Ordered that the petition and a copy of the former recommendation of the Board be sent to the company, and it be asked why it does not do as agreed upon.

Complaint of T. K. L. Chrystie, M. D., against Manhattan Beach road, as to water in tunnel under Prospect Park; answer of Austin Corbin, President, and reply to Dr. Chrystie. Ordered filed.

Commissioner Kernan moved that when the Board adjourn it adjourn to meet at the Fifth Avenue hotel, September 20, at 10 A. M. Carried.

Petition of citizens of Utica for temporary replacing of Delaware, Lackawanna and Western railroad switch on Schuyler street, Utica. Granted.

Complaint of J. E. Towner against the New York Central and Hudson River Railroad Company asking the Board to interfere to assist him in recovering claim for injury to live stock and answer of New York Central and Hudson River Railroad Company. Ordered laid over.

Complaint of V. A. Willard of the failure of the New York, Lake Erie and Western Railroad Company to maintain the fences on its line. Answer of John King (New York, Lake Erie and Western Railroad Company), announcing order to put all fences in perfect repair; and reply of complainant that being a request that the matter be held open. Ordered laid over for the present.

Petition of the citizens of Utica praying that the nuisance of unnecessary whistle blowing on New York Central and Hudson River railroad be abated. Answer of New York Central and Hudson River Railroad Company, that issue to that effect has been made. Ordered, answer be sent complainant.

Letter of inquiry of C. M. Amory, of Troy, asking whether there is not a State law requiring railroad companies to provide drinking water in passenger cars, and complaining that the Boston and Albany does not. Ordered, that Secretary write Mr. Amory that chapter 582, Laws of 1864, requires every road whose lines exceed forty miles in length to provide drinking water, and that it is a question with the Board whether this will cover the Boston and Albany, since it has but thirty-nine and one-third miles in the State; also to write the Boston and Albany Railroad Company and ask if they conform to the provisions of chapter 582, Laws of 1864, as to drinking water, and if not, why not.

Letter of Charles Ashley, complaining that the Rome, Watertown and Ogdensburg Railroad Company do not in the future propose to itemize back charges. Ordered, that Secretary write to company and ask why they do not continue to itemize back charges.

Letter of J. D. Layng (West Shore Railroad Company) relative to Latimer bridge guard. Ordered, that Secretary write that the Latimer guard is not a substitute for the provisions of the law, and the Board is not prepared to release the company from its provisions.

Ordered, that Secretary be authorized to employ a competent man to assist in the preparation of tables for the annual report for year ending September 30, 1887.

Ordered, that bill of H. M. Thompson, expert accountant, for \$150, be approved.

Commissioner Baker submitted a report in the matter of F. D. Mather against the Rome, Watertown and Ogdensburg Railroad Company. Accepted, laid on table and ordered that type-writer copies be made and sent Commissioners.

Commissioner Kernan submitted a report in the matter of the village of Carthage against Carthage and Adirondack Railway Company. Accepted, laid on table and ordered that type-writer copies be made and sent to the Commissioners.

Commissioner Kernan reported verbally that he had gone over to the One Hundred and Twenty-fifth Street Cable road and examined the guards in use, and that in his judgment the device was better than any other yet invented for protecting people, and better than the slats at the end of the cars, for in case of a person falling in front, it gives the gripman a longer space in which to stop the car before the person falling can be struck by the guard. Report accepted and adopted, and ordered sent to complainant.

Commissioner Kernan reported that he had visited Stevens Institute with respect to an examination of a section of the rod broken in the accident on the Rome, Watertown and Ogdensburg railroad, on the 16th of July, 1887, and found that the examination could be made for a sum not exceeding \$100. Accepted.

Answer of the town and village board of Lewiston against Rome, Watertown and Ogdensburg Railroad Company. Ordered usual course.

Complaint of village of Bath-on-the-Hudson against New York Central and Hudson River Railroad Company, that the depot is dilapidated, not open after 6:45, and not at all on Sundays. Ordered usual course.

The Board adjourned.

WILLIAM C. HUDSON,

*Secretary.*

#### SEPTEMBER 20, 1887.

The Board met pursuant to adjournment at the Fifth Avenue hotel. All present.

The minutes of the last meeting were read and approved.

The Board heard Mr. Platt, counsel of the Staten Island Rapid Transit Company, in the matter of H. L. Meyer against that road, and made the following order: "That the road be released from making a separate report of the operations of its leased line, but that it add to its annual and quarterly reports, as it makes them, a statement of the expenditures made on its leased line for permanent improvements."

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of John N. Scatherd, President Buffalo Lumber Exchange, asking that Mr. Spencer might make estimates as to the cost of the Buffalo improvement. Ordered, that the Secretary write that the estimates were made by the Board's engineer and were based on detail, and after consultation with the engineers of the railroads, and with local contractors.

Letter of Walter H. Barnes, General Manager Boston and Albany Railroad Company, relative to compliance with chapter 582, Laws of 1864. Referred to Commissioner Rogers, with power.

Letter of Walston H. Brown, President Buffalo, Rochester and Pittsburgh Railroad Company, withdrawing his application for an increase of capital stock. Ordered filed.

Letters of President Fowler and General Manager Childs, of the New York, Ontario and Western Railroad Company, relative to McElvey crossing. Referred to Commissioner Kernan.

Letter of Thomas K. Baxter, and matter relative to railroad map of Herkimer. Referred to Commissioner Kernan.

The Secretary submitted the bill of Weed, Parsons & Co., for the year ending September 30, 1886, \$691.44. Ordered approved.

Letter of P. C. Ricketts, relative to the broken rod of engine in accident on the Rome, Watertown and Ogdensburg railroad. Ordered, that he be requested to visit the Board on the 27th inst.

Commissioner Baker called up his report in the matter of F. D. Mather against The Rome, Watertown and Ogdensburg Railroad Company. Commissioner Rogers moved that the matter be laid on the table for the present. Carried.

Commissioner Kernan called up his report in the matter of the Village of Carthage against The Carthage and Adirondack Railway, and the Utica and Black River Railroad Companies. Approved after amendment and ordered printed.

Adjourned.

WILLIAM C. HUDSON,

Secretary.

### SEPTEMBER 27, 1887.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Edward Vernon, secretary of the committee organized to secure the adoption of uniform draw bar and coupler for freight service, appeared and was heard on the subject.

The Secretary submitted the letter of Hoadly, Lauterbach & Johnson, asking for name of paper designated by the Board for the publication of notices to stockholders in relation to increase of stock or issuance of bonds. Ordered, that the Secretary answer that the practice of the Board is to designate a newspaper in each instance of application to it by the board of directors of a railroad company for such designation. Such application can be made to the Secretary at any time, who is authorized to make such designation.

Letter of John N. Scatherd, President Buffalo Lumber Exchange, in regard to estimates of the Buffalo crossing matter. Ordered, that Secretary write to the inspector and send him Mr. Scatherd's two letters in relation to the subject, and instruct him to go to Buffalo with all of his figures, and to give Mr. Scatherd any information that he can. Also, to write Mr. Scatherd that Mr. Spencer will go to Buffalo with the figures in detail, from which he made up his estimates, and will submit them to him.

Letter of P. C. Ricketts, in relation to test of fractured bar of engine. Ordered filed.

Letters of Thomas F. Wentworth, counsel, and Walston H. Brown, President Buffalo, Rochester and Pittsburgh Railroad Company, sending notice of proposal to issue \$10,000,000 of bonds of that road, and asking designation of newspaper for publication of stockholders' meeting. Ordered, that the Secretary write Mr. Brown that the Board does not understand that any authority is vested in it, under sub-division 10 of section 28 of the General Railroad Act, as amended by chapter 724 of the Laws of 1887, to approve or disapprove of the issuance of bonds. Its approval of an increase of capital stock is required under section 9 of the General Railroad Act. With regard to the issuance of bonds, its authority consists merely in the designation of a newspaper, which it does now designate as the *Evening Post*.

The Secretary read the answer of the town and village board of Lewiston against The Rome, Watertown and Ogdensburg Railroad Company; also a letter from O. P. Scoville on same subject. Ordered, that hearing be set down for Thursday, October 20, at 10 A.M., at Lewiston. The Board will be at station of New York Central and Hudson River Railroad Company on arrival of train from Buffalo, at 10.05.

Letter of Isaac H. Cotanch, relative to his complaint. Ordered, that Secretary write the road that the Board is informed that it has not complied with its recommendations in the matter of Isaac H. Cotanch.

Letter of W. F. Worthington, corporation counsel of Buffalo, asking for opinion of Board in regard to chapter 642 of the Laws of 1886. Ordered, that Secretary write, "in answer to your communication of September 22, 1887, I am instructed by the Board to say that it had nothing to do with drafting or construing chapter 642 of the Laws of 1886, known as the 'Cantor Act.' The law, with the drafting and construction of which this Board was connected, was chapter 284 of the Laws of 1884, known as the General Street Railroad Act. Inasmuch as the questions proposed in your letter are now matters of litigation before the court, and inasmuch as the Board is not familiar with the facts in this particular case, it does not feel warranted in attempting to answer your question."

Recess.

After recess. All present.

Letter of L. H. Emmons, Traffic Manager Rome, Watertown and Ogdensburg Railroad Company. Board made a decision which was ordered sent to the road.

Letter of John Robertson, highway commissioner, town of Riga. Ordered, that Mr. Spencer go to Churchville and make an estimate of the cost of a bridge over the crossing complained of.

Letter of Bradford Snyder. Ordered, Secretary write road same as in Cotanch's case.

Letter of Albert Allen, Superintendent Elmira, Cortland and Northern Railroad Company, in reference to Laney matter. Laid over.

Commissioner Kernan submitted a decision in case of L. H. Meyer against the Staten Island Rapid Transit Company. Adopted and ordered issued.

Commissioner Rogers called up the matter of C. M. Amory against the Boston and Albany Railroad Company. Ordered, that Secretary write the President of the Boston

and Albany Railroad Company as follows: "In the matter of C. M. Amory, it is the judgment of the Board that chapter 582, Laws of 1864, requires that drinking water be kept in passenger cars at all times when they are in use, and hence the Board must recommend that that course be adopted by the Boston and Albany Railroad Company."

Commissioner Rogers, in regard to plans for posts in the prolongation of bridge trusses, reported progress.

The acting accountant was instructed to answer the letter of H. McGonegal, to the effect that reports are to be made in the regular form required from roads not constructed or in operation.

The Secretary was ordered to notify Mr. Spencer to meet the Board on the "Limited," Tuesday the 18th of October, going to Buffalo.

The complaint of L. H. Lyon against the Rome, Watertown and Ogdensburgh Railroad Company. Ordered, that the Secretary write: "The Board is informed that people who desire to take the Utica and Black River railroad at Utica, are misled by the fact that all of the cars of that road are now marked "Rome, Watertown and Ogdensburgh," and that others, again, are led the same way to believe that they can, by taking that road, reach Camden and other points between Rome and Watertown. The Board would like to know why it would not be practicable and expedient to mark the cars running from Utica, "Utica and Black River Railroad Division," in addition to having upon them "Rome, Watertown and Ogdensburgh Railroad." Inclosed you will find a copy of the complaint of L. H. Lyon in regard to the matter."

On motion of Commissioner Rogers, adjourned until Tuesday, October 4, 1887

WILLIAM C. HUDSON,

*Secretary.*

### EXPENSES OF THE BOARD.

Travelling expenses of the Board of Railroad Commissioners for the twelve months ending September 30, 1887, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 353, Laws of 1882, to \$500 per month, in the aggregate, or \$6,000 per annum.)

Of the Commissioners.....	\$631 41
Of the secretary, inspector and accountant.....	758 78
Of the marshal, stenographer, clerks, etc .....	85 61
Total.....	<u>\$1,425 80</u>



## NEW COMPANIES

*Formed under General Railroad Law during the year ending September 30, 1887, by filing Articles in the office of the Secretary of State.*

NAME OF ROAD.	County in which operated.	Articles filed.	Length of road.	Capital stock.
			Miles.	
Binghamton and South-western .....	Kings .....	Jan. 13, 1887	17	\$200,000
Brooklyn and Brighton Beach .....	Kings .....	Sept. 2, 1887	.....	1,000,000
Brooklyn Cable .....	Kings .....	Nov. 10, 1886	5	500,000
Brooklyn Heights .....	Kings .....	April 1, 1887	1-2	150,000
Brooklyn and Suburban Street Railway .....	Kings .....	March 7, 1887	2 3-4	100,000
Buffalo and South Park Belt Line Railway .....	Erie .....	June 29, 1887	5	50,000
Canandaigua Lake .....	Ontario .....	July 21, 1887	780 ft.	20,000
Chateaugay Railway .....	Franklin and Clinton .....	July 13, 1887	40	165,000
Coney Island Electrical Railway .....	Kings .....	June 2, 1887	3-4	100,000
Delaware and Otsego .....	Delaware and Otsego .....	May 5, 1887	35	500,000
East Side Railroad Company of Rochester .....	Monroe .....	July 7, 1887	2	20,000
East and West Ferries .....	New York .....	April 27, 1887	5	50,000
Flushing and College Point Electric Street Railway .....	Queens .....	May 9, 1887	6	150,000
Fort Plain and Richfield Springs .....	Montgomery, Otsego .....	July 6, 1887	30	600,000
Fulton Street Crosstown Railway .....	New York .....	April 14, 1887	2	25,000
Harlem River and Woodstock Railway .....	New York .....	Nov. 30, 1886	2 1-2	150,000
Hudson Connecting .....	Dutchess, Orange .....	Jan. 28, 1887	20	1,000,000
Huntington Street Railway .....	Suffolk .....	Feb. 3, 1887	3	30,000
Kinderhook, Valatie and Niverville Railway .....	Columbia .....	Jan. 15, 1887	4 1-2	50,000
Kinderhook, Valatie and Stuyvesant .....	Columbia .....	July 28, 1887	10	150,000
Lake Mahopac and Connecticut Railway .....	.....	Oct. 19, 1886	30	750,000
Manhattan Surface Railway .....	New York .....	April 5, 1887	4	100,000
Maple Avenue .....	Chemung .....	May 16, 1887	1 1-2	20,000
Mohawk and Susquehanna Valley Railway .....	Montgomery .....	June 29, 1887	45	1,000,000
Newburgh and Poughkeepsie .....	Orange, Dutchess .....	March 3, 1887	19	200,000
New England and Western Railway .....	.....	June 6, 1887	30	3,000,000
New Jersey and Staten Island Junction .....	Richmond .....	Dec. 14, 1886	12	500,000
New York, Chicago and St. Louis .....	Dutchess .....	June 20, 1887	70	4,500,000
New York Harbor .....	Richmond .....	Jan. 15, 1887	22	500,000
New York and Long Island .....	New York, Queens .....	July 30, 1887	5	100,000
New York and Westchester Railway .....	.....	April 18, 1887	20	200,000
North Side Railroad Company of Rochester .....	Monroe .....	Sept. 24, 1887	2 1-2	25,000
Oneida Street .....	Oneida .....	Jan. 12, 1887	4	40,000
One Hundred and Fifty-fifth Street .....	New York .....	Dec. 31, 1886	2 1-4	75,000
Oneonta and Otego Valley .....	Otsego .....	Sept. 20, 1887	28	300,000
Peekskill Valley .....	.....	May 24, 1887	20	200,000
Peoples' Railroad Company of Syracuse .....	Onondaga .....	April 25, 1887	6	300,000
Port Chester and Rye Beach Street Railway .....	Westchester .....	Jan. 24, 1887	4	50,000
Poughkeepsie Connecting .....	Dutchess .....	Jan. 28, 1887	10	500,000
Poughkeepsie and Delaware Valley .....	Dutchess .....	Feb. 16, 1887	30	300,000
Poughkeepsie, Hartford and New England .....	Dutchess, Columbia .....	Sept. 10, 1887	28 1-2	285,000
Poughkeepsie Terminal Railway .....	Dutchess .....	May 19, 1887	5	200,000
Queen City Street Railway .....	Erie .....	Aug. 5, 1887	2 2-10	100,000
Rochester Cable .....	Monroe .....	July 9, 1887	5	1,000,000
Rochester City and Brighton Terminal .....	Monroe .....	Aug. 9, 1887	5	50,000
Rochester Electric Railway .....	Monroe .....	July 9, 1887	6	75,000
Saratoga Street Railway .....	Saratoga .....	Jan. 25, 1887	5	50,000
Staten Island Belt Line .....	Richmond .....	July 26, 1887	18	200,000
Syracuse .....	Onondaga .....	June 6, 1887	7	100,000
Third Street Railroad Company of Newburgh .....	Orange .....	June 17, 1887	1	40,000
Troy and Averill Park .....	Rensselaer .....	Oct. 8, 1886	7 1-2	75,000
Washington County .....	Washington .....	July 9, 1887	38	1,450,000
Watertown Street Railway .....	Jefferson .....	Sept. 23, 1887	4	40,000
West Side Railroad Company of Rochester .....	Monroe .....	Aug. 6, 1887	5	50,000
West Side Street Railway .....	Erie .....	Aug. 13, 1887	2 2-10	50,000
West Side Street Railway Company .....	Broome .....	Sept. 24, 1887	2	25,000



## REORGANIZATIONS.

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### THE ADDISON AND PENNSYLVANIA RAILWAY COMPANY.

This road, after being sold under mortgage foreclosure, was reorganized under the name of "The Addison and Pennsylvania Railway Company of New York."

Certificate of incorporation filed July 15, 1887.

### GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD COMPANY.

This road, after being sold under mortgage foreclosure, April 27, was reorganized under the corporate name of "The Franklin Avenue Railroad Company."

Certificate of incorporation filed May 21, 1887.

### THE NEW YORK AND ATLANTIC RAILROAD COMPANY.

This road was reorganized, after being sold under mortgage foreclosure, under the corporate name of "The West Brooklyn Railroad Company."

Certificate of incorporation filed May 2, 1887.

### THE PORT JERVIS AND MONTICELLO RAILROAD COMPANY.

This road was reorganized under the name of "The Port Jervis, Monticello and New York Railroad Company."

Certificate of incorporation filed November 17, 1886.

### THE POUGHKEEPSIE, HARTFORD AND BOSTON RAILROAD COMPANY.

This road was sold under mortgage foreclosure. It was afterwards reorganized under the corporate name of "The New York and Massachusetts Railway Company."

Certificate of incorporation filed January 22, 1887.

## CONSOLIDATIONS.

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**THE ADDISON AND PENNSYLVANIA RAILWAY COMPANY OF NEW YORK, AND THE ADDISON AND PENNSYLVANIA RAILWAY COMPANY OF PENNSYLVANIA.**

Articles of association of the above-named companies into one organization, to be known as "The Addison and Pennsylvania Railroad Company," were filed July 23, 1887.

**THE BUFFALO, ROCHESTER AND PITTSBURGH RAILROAD COMPANY (NEW YORK), AND THE PITTSBURGH AND STATE LINE RAILROAD COMPANY (PENNSYLVANIA).**

Articles of consolidation of the above-named companies into one organization, to be known as "The Buffalo, Rochester and Pittsburgh Railway Company," were filed March 11, 1887.

**THE CHAUTAUQUA LAKE RAILWAY COMPANY, THE JAMESTOWN SHORT LINE RAILWAY COMPANY, AND THE WESTFIELD AND CHAUTAUQUA RAILWAY COMPANY.**

Articles of consolidation of the above-named companies into one organization, to be known as "The Chautauqua Lake Railway Company," were filed December 29, 1886.

**THE CHEMUNG RAILROAD COMPANY, THE ELMIRA, JEFFERSON AND CANANDAIGUA RAILROAD COMPANY, AND THE SODUS BAY AND SOUTHERN RAILROAD COMPANY.**

Articles of consolidation of the above-named companies into one organization, to be known as "The Elmira and Lake Ontario Railroad Company," were filed December 31, 1886.

**THE NEW YORK AND CHICAGO AND ST. LOUIS RAILROAD COMPANY, THE CLEVELAND AND STATE LINE, AND THE FORT WAYNE AND ST. LOUIS RAILROAD COMPANY.**

Articles of merger and consolidation into one organization of the above-named companies were filed September 27, 1887, under the name of "The New York and Chicago Railroad Company."

**THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY, AND THE ERIE AND STATE LINE RAILROAD COMPANY.**

Articles of consolidation into one organization of the above-named companies were filed August 15, 1887, under the name of "The New York, Chicago and St. Louis Railroad Company."

**THE NEW YORK AND MASSACHUSETTS RAILWAY COMPANY, AND THE HUDSON RIVER AND BOSTON RAILWAY COMPANY.**

These two companies were consolidated by filing articles April 26, 1887. The name of the new organization will be "The New York and Massachusetts Railway Company."

**THE TROY AND BOSTON RAILROAD COMPANY, AND THE FITCHBURGH RAILROAD COMPANY.**

The above-named companies were merged and consolidated into one organization under the title of "The Fitchburgh Railroad Company." Their articles were filed June 25, 1887.

## EXTENSION OF ROUTES.

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### THE CITY ISLAND RAILROAD COMPANY.

Certificate of extension of route filed March 22, 1887.  
Length of extension,

### THE COURT STREET AND EAST SIDE STREET RAILROAD COMPANY (BINGHAMTON).

Certificate of extension of route filed May 2, 1887.  
Length of extension, three-fourths of a mile.

### THE HOUSTON, WEST STREET AND PAVONIA FERRY RAILROAD COMPANY (NEW YORK CITY).

Certificate of extension of route filed June 21, 1887.  
Length of extension, 4,690 feet.

### THE PROSPECT PARK AND CONEY ISLAND RAILROAD COMPANY (KINGS COUNTY).

Certificate of extension of route filed November 8, 1886.  
Length of extension, three and one-half miles.

### THE ROCHESTER CITY AND BRIGHTON RAILROAD COMPANY.

Certificate of extension of route filed July 15, 1887.  
Length of extension, 7,100 feet.

### THE ROCHESTER CITY AND BRIGHTON RAILROAD COMPANY.

Certificate of extension of route filed August 6, 1887.  
Length of extension, 440 rods.

### THE ROCHESTER ELECTRIC RAILWAY COMPANY.

Certificate of extension of route filed August 20, 1887.  
Length of extension, twelve and one-half miles.

### THE SIXTH AVENUE RAILROAD COMPANY.

Certificate of extension of route filed November 8, 1886.  
Length of extension, 1,500 feet.

### THE SIXTH AVENUE RAILROAD COMPANY.

Certificate of extension of route filed January 17, 1887.  
Length of extension,

### THE UTICA BELT LINE STREET RAILROAD COMPANY.

Certificate of extension of route filed June 22, 1887.  
Length of extension: Blandina street, 9,000 feet.

### THE UTICA BELT LINE STREET RAILROAD COMPANY.

Certificate of extension of route filed June 22, 1887.  
Length of extension, Whitestown road to Upper New York Mills, 8,348 feet.

### THE UTICA, CLINTON AND BINGHAMTON RAILROAD COMPANY.

Certificate of extension of route filed October 8, 1886.  
Length of extension of route, 9,211 feet.—This is the same extension afterward made by the Utica Belt Line.

# ENACTMENTS.

1887.

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Chap. 63. An act to provide for the amicable adjustment of grievances and disputes that may arise between employers and employees, and to authorize the creation of a State Board of Mediation and Arbitration. (See section 13.)

Chap. 179. An act in relation to the jurisdiction of the department of public parks in the city of New York over certain streets and avenues in said city.

Chap. 229. An act in relation to the Genesee Valley canal, and to provide for the relief of the city of Rochester, and of the Genesee Valley Canal Railroad Company, and the Buffalo, New York and Philadelphia Railroad Company in relation thereto.

Chap. 257. An act in relation to the building of a highway bridge and the discontinuance of certain portions of certain streets in the village of Niagara Falls.

Chap. 273. An act to amend chapter two hundred and sixty-five of the Laws of eighteen hundred and sixty-four, entitled "An act to authorize the construction of a railroad from Dunkirk to Fredonia."

Chap. 284. An act to amend chapter one hundred and forty-three of the Laws of eighteen hundred and eighty-six, entitled "An act to tax stock corporations for the privilege of organization."

Chap. 401. An act in relation to milk cans.

Chap. 448. An act for the relief of the Chateaugay Railroad Company, and fixing the rate of fare for passengers thereon.

Chap. 450. An act extending to corporations organized under the laws of other States, and doing business within this State, the right to hold, purchase and convey real estate.

Chap. 475. An act to amend chapter two hundred and eighty-three of the Laws of eighteen hundred and eighty-five, entitled "An act to establish a Forest Commission and to define its powers and duties, and for the preservation of the forests."

Chap. 508. An act extending the time in which the Staten Island and New Jersey Bridge and Railway Company may complete its bridges and railway.

Chap. 529. An act to regulate the hours of labor in the street surface and elevated railroads chartered by the State, in cities of one hundred thousand inhabitants and over.

Chap. 536. An act in relation to railroad corporations.

Chap. 601. An act to amend chapter three hundred and ten of the Laws of eighteen hundred and eighty-six, entitled "An act to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment."

Chap. 608. An act to extend the charter of the Delhi and Hudson River Railroad Company.

Chap. 616. An act to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.

Chap. 622. An act to amend chapter six hundred and forty-two of the Laws of eighteen hundred and eighty-six, entitled "An act to amend chapter sixty-five of the Laws of eighteen hundred and eighty-six, entitled 'An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages.'"

Chap. 671. An act to amend chapter three hundred and ninety-one of the Laws of eighteen hundred and eighty, entitled "An act to amend the act entitled 'An act incorporating the New York Northern Railroad Company,' " passed April twenty-eighth, eighteen hundred and sixty-six.

Chap. 688. An act to amend the Penal Code by adding an additional section thereto to be known as section 171 "A."

Chap. 689. An act to amend section three hundred and eighty-nine of the Penal Code.

Chap. 695. An act to amend chapter eight hundred and ninety-seven of the Laws of eighteen hundred and seventy-one, entitled "An act to incorporate the Poughkeepsie Bridge Company for the purpose of constructing and maintaining a bridge, appurtenances and approaches to the same over the Hudson river, at a point or points between the city of Poughkeepsie and the town of Lloyd, Ulster county, on said river."

Chap. 714. An act for the improvement of the city of New York between the southerly line of Sixtieth street and the southerly line of Seventy-second street, lying west of the easterly line of the lands now held by the New York Central and Hudson River Railroad Company.

Chap. 724. An act to amend chapter one hundred and forty of the Laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same."

# ALPHABETICAL LIST

## OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE.

Name of Road.	When formed.	Name of Road.	When formed.
Addison and Northern Pennsylvania..	1892	Attica and Sheldon.....	1836
Addison, Osceola and Cowanesque Val- ley .....	1878	Auburn and Canal.....	1832
Adirondack .....	1839	Auburn and Deposit Air Line.....	1871
Adirondack .....	1863	Auburn and Homer Midland.....	1872
Adirondack Estate Railroad Company.	1860	Auburn and Owasco Lake.....	1871
Adirondack Railway.....	1892	Auburn and Owasco Lake.....	1880
Albany.....	1861	Auburn and Port Byron.....	1869
Albany, Bennington and Rutland.....	1850	Auburn and Rochester.....	1836
Albany and Boston.....	1862	Auburn and Syracuse.....	1834
Albany and Boston.....	1864	Auburn and Willow Brook.....	1872
Albany and Kenwood.....	1863	Aurora and Buffalo.....	1832
Albany and Lackawanna.....	1866	Avenue C.....	1869
Albany and New York.....	1866	Avon, Genesee and Mount Morris.....	1860
Albany and Northern.....	1851	Babylon .....	1871
Albany Railroad.....	1863	Baldwinsville Branch.....	1886
Albany Railway.....	1863	Batavia, Albion and Lake Ontario.....	1883
Albany, Sandlake and Stephentown ...	1871	Batavia, Attica and Salamanca.....	1867
Albany and Saratoga.....	1852	Batavia and Cheektawaga.....	1850
Albany and Saratoga Springs.....	1853	Bath and Crooked Lake.....	1831
Albany and Schenectady.....	1847	Bath and Hammondsport.....	1872
Albany and Susquehanna.....	1851	Bay Ridge and Sea Shore.....	1873
Albany and Vermont.....	1856	Bay Ridge and Sea Side.....	1871
Albany, Vermont and Canada.....	1859	Bay Shore.....	1866
Albany and West Stockbridge.....	1836	Belmont and Buffalo.....	1871
Albion and Tonawanda.....	1832	Binghamton Central.....	1883
Allegany Central.....	1881	Binghamton, Dushore and Williams- port .....	1872
Allegany Central.....	1892	Binghamton and Port Dickinson.....	1868
Amsterdam, Chuctanunda and North'n	1879	Binghamton and South Western.....	1887
Amsterdam Street.....	1873	Binghamton and Susquehanna.....	1833
Arcade and Genesee River.....	1872	Binghamton and Williamsport.....	1882
Astoria and Hunters Point.....	1867	Black River.....	1836
Astoria and Hunters Point.....	1877	Black River Company.....	1832
Atlantic Avenue.....	1872	Black River and Morristown.....	1870
Atlantic and Great Western.....	1859	Black River and St. Lawrence.....	1868
Atlantic and Great Western.....	1872	Black River and Utica.....	1858
Atlantic and Great Western of New York .....	1872	Black River and Woodhull.....	1868
Atlantic and Great Western Railroad Company of New York and Penn'a..	1872	Bleecker Street and Fulton Ferry.....	1866
Atlantic and Ontario.....	1871	Blossburgh and Corning.....	1864
Attica and Allegheny Valley.....	1852	Boonville and Constableville.....	1868
Attica and Arcade.....	1870	Boonville and Ontario.....	1868
Attica and Arcade.....	1880	Boonville and Port Ontario.....	1873
Attica and Buffalo.....	1836	Boonville and Turin.....	1866
Attica and Hornellsville.....	1845	Boston and Albany.....	1871
Attica, Lockport and Lake Ontario....	1883	Boston, Albany and Schenectady.....	1877
		Boston, Hartford and Erie.....	1864
		Boston, Hartford and Erie Extension..	1864

## DATE WHEN COMPANIES FORMED.

Name of Road.	When formed.	Name of Road.	When formed.
Boston, Hartford and Erie Ferry Ex- tension .....	1864	Brooklyn Elevated and Atlantic Beach	1879
Boston and Henderson Harbor .....	1872	Brooklyn Elevated Railway Construc- tion Company .....	1882
Boston, Hoosac Tunnel and Albany ..	1873	Brooklyn Elevated Silent Safety .....	1874
Boston, Hoosac Tunnel and Western ..	1877	Brooklyn, Flatbush and Coney Island ..	1866
Boston, Hoosac Tunnel and Western Railway .....	1881	Brooklyn, Flatbush and Coney Island ..	1869
Boston, New York and Chicago .....	1874	Brooklyn, Flatbush and Coney Island Railway .....	1877
Boston, New York and Western .....	1880	Brooklyn, Flatbush and Rockaway Beach .....	1879
Boston, Rome and Oswego .....	1871	Brooklyn, Fort Hamilton, Bath and Coney Island .....	1836
Boston, Saratoga and Western .....	1870	Brooklyn, Fort Hamilton and Coney Island .....	1867
Boutenberg .....	1886	Brooklyn, Fort Hamilton and Coney Island .....	1881
Bowery Bay and Hunters Point .....	1882	Brooklyn Heights .....	1887
Bradford, Eldred and Cuba .....	1881	Brooklyn Heights Cable .....	1886
Branchport and Penn Yan .....	1885	Brooklyn and Jamaica .....	1832
Breslau and Fire Island .....	1872	Brooklyn and Jamaica .....	1866
Brewerton and Syracuse .....	1836	Brooklyn and Jersey City Ferry .....	1884
Bridge Tunnel .....	1886	Brooklyn and Long Island Cable .....	1884
Brighton (No. 1) .....	1880	Brooklyn and Long Island City .....	1880
Brighton (No. 2) .....	1880	Brooklyn and Long Island Trunk .....	1883
Brighton Beach .....	1879	Brooklyn and Montauk .....	1880
Brighton Beach and New York .....	1880	Brooklyn, Middle Village and Jamaica Brooklyn, Prospect Park and Flat- bush .....	1866 1867
Broadway and Bowery Bay .....	1883	Brooklyn, Prospect Park and Jamaica Bay .....	1869
Broadway (of Brooklyn) .....	1858	Brooklyn and Queens County .....	1883
Broadway (of New York) .....	1884	Brooklyn and Rockaway .....	1862
Broadway Central Underground .....	1880	Brooklyn and Rockaway Beach .....	1864
Broadway, Lexington and Fifth Avenue	1884	Brooklyn, Rockaway and Coney Island	1881
Broadway and Rockaway Beach .....	1880	Brooklyn and Sea Shore .....	1871
Broadway and Seventh Avenue .....	1864	Brooklyn Steam Transit .....	1869
Broadway Surface .....	1884	Brooklyn Steam Transit .....	1871
Broadway Underground .....	1880	Brooklyn and Suburban .....	1887
Broadway Underground Connecting ..	1880	Brooklyn Underground .....	1881
Broadway and Yonkers Patent .....	1866	Brooklyn, Winfield and Newtown .....	1870
Brook Avenue .....	1885	Brooklyn and Winfield Railway .....	1869
Brooklyn, Bath and Coney Island .....	1862	Broome and Delancey St. Crosstown ..	1886
Brooklyn, Bath and Coney Island .....	1879	Broome, Delancey and Spring Streets ..	1885
Brooklyn, Bath and West End .....	1886	Buffalo and Allegany Valley .....	1863
Brooklyn Bridge and South Shore .....	1886	Buffalo, Aurora and South-eastern .....	1882
Brooklyn Bridge and Brighton Beach ..	1887	Buffalo and Batavia .....	1838
Brooklyn, Bushwick and Queens Co. ..	1885	Buffalo and Black Rock .....	1833
Brooklyn Cable .....	1883	Buffalo, Bradford and Pittsburgh .....	1869
Brooklyn Cable .....	1886	Buffalo Branch of the Erie Railway .....	1861
Brooklyn and Canarsie .....	1865	Buffalo, Cayuga Valley and Pine Creek	1882
Brooklyn Central .....	1869	Buffalo Chau. Lake and Pittsburgh .....	1879
Brooklyn Central and Jamaica .....	1860	Buffalo City .....	1867
Brooklyn City .....	1853	Buffalo City .....	1877
Brooklyn City Elevated .....	1875	Buffalo, Cleveland and Chicago R'y .....	1881
Brooklyn City Elevated .....	1879	Buffalo and Conhocton Valley .....	1860
Brooklyn City, Hunters Point and Pros- pect Park .....	1868	Buffalo, Corning and New York .....	1852
Brooklyn City and Newtown .....	1860	Buffalo, Corry and Pittsburgh .....	1868
Brooklyn City and Ridgewood .....	1861	Buffalo Creek .....	1869
Brooklyn City and Rockaway .....	1862	Buffalo Creek Extension .....	1874
Brooklyn and Coney Island .....	1876	Buffalo Creek Transfer .....	1881
Brooklyn and Coney Island Central .....	1877	Buffalo Crosstown .....	1874
Brooklyn, Coney Island and Rocka- way .....	1878		
Brooklyn Crosstown .....	1872		
Brooklyn, East New York and Rocka- way .....	1864		
Brooklyn Elevated .....	1884		



# DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Buffalo East Side Street.....	1870	Cassadaga and Erie.....	1836
Buffalo and Erie.....	1832	Castleton and West Stookbridge.....	1834
Buffalo and Erie.....	1837	Carthage and Adirondack.....	1838
Buffalo Erie Basin.....	1876	Carthage, Watertown and Sackett's Harbor.....	1869
Buffalo and Geneva.....	1886	Catskill City.....	1885
Buffalo and Great Western.....	1882	Catskill Horse.....	1874
Buffalo Harbor.....	1883	Catskill and Ithaca.....	1828
Buffalo and Hinsdale.....	1846	Catskill Mountain.....	1880
Buffalo and International.....	1857	Catskill and Schoharie Valley.....	1871
Buffalo and International Bridge.....	1871	Cattaraugus.....	1868
Buffalo and Jamestown.....	1872	Cayuga Lake.....	1867
Buffalo and Lake Huron.....	1858	Cayuga Northern.....	1872
Buffalo Lehigh.....	1881	Cayuga Midland.....	1871
Buffalo and Lockport.....	1852	Cayuga Railway.....	1875
Buffalo and New York.....	1851	Cayuga Southern.....	1878
Buffalo and New York City.....	1851	Cayuga and Susquehanna.....	1843
Buffalo, New York and Erie.....	1857	Cazenovia and Canastota.....	1868
Buffalo, New York and Philadelphia.....	1871	Cazenovia and Canastota.....	1873
Buffalo and Niagara Falls.....	1834	Cazenovia, Canastota and De Ruyter..	1873
Buffalo Niagara Slip.....	1877	Cazenovia, Canastota and De Ruyter..	1876
Buffalo and Oil Creek Cross Cut.....	1865	Cazenovia and De Ruyter.....	1872
Buffalo and Pittsburgh.....	1852	Cedarhurst.....	1888
Buffalo, Pittsburgh and St. Louis.....	1852	Central City.....	1860
Buffalo, Pittsburgh and Western.....	1880	Central Crosstown.....	1873
Buffalo, Pittsburgh and Western.....	1881	Central Elevated Railway.....	1869
Buffalo and Rochester.....	1850	Central Elevated Railway.....	1886
Buffalo, Rochester and Pittsburgh.....	1881	Central of Long Island.....	1871
Buffalo, Rochester and Pittsburgh.....	1886	Central Park, North and East River....	1860
Buffalo and South Park Belt Line.....	1887	Central Park and Kings Bridge.....	1868
Buffalo and South-western.....	1878	Central Railroad Extension.....	1873
Buffalo and State Line.....	1849	Central Saratoga.....	1878
Buffalo and Springville.....	1871	Central of Staten Island.....	1870
Buffalo Street.....	1860	Central (Staten Island).....	1873
Buffalo, Syracuse and Albany.....	1878	Central Tunnel.....	1881
Buffalo, Tonawanda and Niagara Falls	1853	Central Valley.....	1870
Buffalo and Washington.....	1865	Chambers Street.....	1877
Buffalo and Williamsville.....	1868	Chambers Street.....	1884
Buffalo and Williamsville.....	1870	Chambers Street Crosstown.....	1880
Buffalo and Williamsville.....	1886	Chambers Street and Grand St. Ferry..	1884
Burnet Street Car.....	1886	Champlain and St. Lawrence.....	1851
Bushwick.....	1867	Charlotte Lake View.....	1875
Cairo.....	1884	Charlotte and Lake View.....	1881
Calvary Cemetery, Greenpoint and Brooklyn.....	1885	Chateaugay.....	1879
Canajoharie and Catskill.....	1830	Chateaugay.....	1887
Canal.....	1878	Chatauga County.....	1851
Canandaigua and Bath.....	1872	Chatauga Lake.....	1874
Canandaigua and Corning.....	1845	Chatauga Lake.....	1886
Canandaigua and Elmira.....	1852	Chatauga Valley.....	1882
Canandaigua Lake.....	1887	Chemung.....	1845
Canandaigua and Niagara Falls.....	1851	Chemung and Ithaca.....	1837
Canandaigua, Palmyra and Ontario...	1872	Chenango Valley.....	1863
Canandaigua Railway and Transpor- tation Company.....	1823	Cherry Valley, Sharon and Albany.....	1869
Canandaigua Street.....	1886	Cherry Valley and Mohawk River.....	1864
Canandaigua and Syracuse.....	1853	Cherry Valley and Spraker's Horse Power Railroad Company.....	1860
Canarsie, Brooklyn and Winfield.....	1864	Cherry Valley and Susquehanna.....	1836
Canarsie and Flatbush.....	1874	Christopher and Tenth Street.....	1873
Canastota Northern.....	1886	Christopher St. and James Slip Ferry..	1885
Canton and St. Lawrence River.....	1885	Citizens' Railway.....	1885
Canton and Waddington.....	1884	Citizens' Street R. R. Co. of Rochester.	1885

Name of Road.	When formed.	Name of Road.	When formed.
City (Binghamton).....	1884	Dunkirk, Chautauqua Lake and Pitts-	
City Island.....	1884	burgh.....	1879
City Line and Canarsie.....	1869	Dunkirk and Fredonia.....	1866
City (Poughkeepsie).....	1878	Dunkirk and Junction.....	1879
Clayton and Theresa.....	1871	Dunkirk, Warren and Pittsburgh.....	1867
Clinton Avenue.....	1864	Dunkirk, Warren and Pittsburgh.....	1870
Clinton and South Clinton.....	1853	Dutchess.....	1832
Clove Branch.....	1869	Dutchess.....	1836
Clyde and Sodus Bay.....	1853	Dutchess and Columbia.....	1866
Coeymans.....	1836	East Brooklyn Railroad.....	1874
Cohoes and Waterford.....	1863	East Brooklyn Railway.....	1873
Cohoes and Waterford.....	1867	East Brooklyn, Winfield and Newtown.....	1867
Cohoes and Waterford.....	1872	East Chester.....	1886
Cold Spring.....	1839	Eastern Branch of the Dutchess and	
Columbia and Rensselaer.....	1886	Columbia.....	1868
Columbia Street and Erie Basin.....	1866	East Buffalo Terminal.....	1883
Concourse.....	1880	Eastern Railroad Company of Long	
Conesus Lake.....	1882	Island.....	1879
Coney Island Beach.....	1877	East Genesee Street and Seward Ave.....	1871
Coney Island and Brooklyn.....	1860	East Genesee Street and Seward Ave	
Coney Island Centre and Safety Rails		Railway.....	1881
Elevated.....	1880	East New York, Bayside and Ozone	
Coney Island and East River.....	1876	Park.....	1885
Coney Island Electrical.....	1887	East New York and Jamaica.....	1860
Coney Island Elevated.....	1880	East New York and Jamaica Bay.....	1865
Coney Island High and Low-water		East and North River.....	1861
Mark.....	1877	East and North River.....	1884
Coney Island and Rockaway.....	1878	East River Bridge and Coney Island	
Coney Island and Sea View Elevated.....	1880	Transit.....	1881
Coney Island, Sheepshead Bay and		East River and Connecticut Railway.....	1881
Ocean Avenue.....	1880	East River and Newtown.....	1885
Coney Island Surface.....	1877	East River Tunnel.....	1885
Coney Island Transit.....	1880	East Side and Mt. Vernon Railway.....	1881
Connecting Terminal.....	1881	East Side and New Rochelle Patent	
Cooperstown and Cherry Valley.....	1837	Railway.....	1866
Cooperstown and Susquehanna Valley.....	1865	East Side Railway.....	1868
Copenhagen and Turin.....	1866	East Side of Rochester.....	1887
Corning and Blossburgh.....	1851	East and West Ferries.....	1887
Corning, Cowanesque and Antrim.....	1873	Eighth Avenue.....	1855
Corning and Olean.....	1853	Elmira, Canandaigua and Niagara	
Corning and Painted Post.....	1866	Falls.....	1857
Corning and Seneca Lake.....	1864	Elmira Connecting.....	1882
Cornwall Branch.....	1869	Elmira, Cortland and Northern.....	1884
Cornwall Suspension Bridge.....	1868	Elmira and Horseheads.....	1871
Cortland and Homer.....	1882	Elmira, Jefferson and Canandaigua.....	1859
Court Street and East End.....	1886	Elmira State Line.....	1872
Court Street and River Side.....	1883	Elmira Transfer.....	1885
Court Street and River Side.....	1885	Elmira and Williamsport.....	1832
Coxsackie and Schenectady.....	1837	Elmira and Williamsport.....	1860
Croton Valley.....	1885	Erie and Black Rock.....	1832
Cypress Hill Railway.....	1872	Erie and Cattaraugus.....	1837
Danville and Rochester.....	1832	Erie and Central New York.....	1883
Delaware.....	1836	Erie and Genesee Valley.....	1868
Delaware and Otsego.....	1887	Erie International.....	1872
Delhi and Hudson River.....	1882	Erie and New England.....	1868
Delhi and Middletown.....	1871	Erie and New York City.....	1862
Division Avenue.....	1853	Erie and Niagara River.....	1882
Dry Dock, East Broadway and Battery.....	1864	Erie Railway.....	1861
Dunkirk, Allegheny Valley and Pitts-		Erie, Rochester and Lake Ontario Ter-	
burgh.....	1873	minial.....	1884
Dunkirk and Chautauqua Lake.....	1865	Far Rockaway Beach.....	1881

# DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Far Rockaway Branch .....	1868	Genesee Valley Canal.....	1886
Ferry Crosstown.....	1885	Genesee Valley Junction.....	1882
Fifth Avenue.....	1884	Genesee Valley Terminal.....	1882
Fifth Avenue.....	1885	Genesee and Water Street.....	1866
Fifth Ward.....	1868	Geneseo.....	1848
Fifty-second, Fifty-third Streets and Boulevard.....	1886	Geneseo and Pittsford.....	1836
Fifty-ninth Street.....	1885	Geneva and Canandaigua.....	1828
First Avenue and Jersey Ferries.....	1864	Geneva and Cattaraugus.....	1837
Fish House and Amsterdam.....	1832	Geneva and Hornellsville.....	1876
Fishkill.....	1868	Geneva, Hornellsville and Pine Creek ..	1876
Fishkill and Matteawan Street.....	1886	Geneva and Ithaca.....	1870
Fishkill and Newburgh .....	1876	Geneva, Ithaca and Athens.....	1874
Flatbush, Coney Island and Canarsie..	1864	Geneva, Ithaca and Sayre.....	1877
Flatbush, Coney Island Park and Con- course.....	1876	Geneva and Lyons.....	1878
Flushing.....	1852	Geneva and Southwestern.....	1871
Flushing.....	1863	Geneva, Southwestern and Hornells- ville.....	1873
Flushing and College Point.....	1866	Gilbert Elevated.....	1872
Flushing and College Point Electric Street.....	1887	Gilboa.....	1839
Flushing and College Point Street.....	1886	Glendale and East River.....	1874
Flushing, North Shore and Central.....	1874	Glens Falls.....	1867
Flushing and North Side.....	1868	Glens Falls, Sandy Hill and Fort Edward.....	1885
Flushing Village.....	1871	Glens Falls Street.....	1885
Flushing and Woodside.....	1884	Gloversville and Kingsboro.....	1874
Fonda and Fultonville.....	1875	Gloversville, Mayfield and Northville..	1868
Fonda, Johnstown and Gloversville...	1867	Gloversville and Northville.....	1872
Forestport.....	1868	Goshen and Albany.....	1842
Fort Ann and Mount Hope.....	1871	Goshen and Deckertown.....	1868
Fort Edward, Glens Falls and Sandy Hill.....	1863	Goshen and New Jersey.....	1837
Fort Hamilton and Coney Island.....	1881	Grand Street.....	1859
Fort Plain and Richfield Springs.....	1887	Grand Street Central Transit.....	1884
Fort Pond Bay.....	1883	Grand Street Ferry and Middle Village.	1869
Forty-second Street Crosstown.....	1877	Grand Street and Maspeth.....	1859
Forty-second St. and Grand St. Ferry..	1863	Grand Street and Newtown.....	1860
Forty-second Street, Manhattanville and St. Nicholas Avenue.....	1878	Grand Street, Prospect Park and Flat- bush.....	1870
Fourteenth Street District Railway.....	1885	Great Ausable.....	1828
Frankfort and Ilion.....	1871	Great Valley and Bradford.....	1881
Fredonia and Van Buren.....	1836	Greene.....	1838
Friendship.....	1881	Greene.....	1870
Fulton.....	1864	Greenpoint and Calvary.....	1865
Fulton and Cortland Street Ferry.....	1884	Greenpoint and Lorimer Street.....	1885
Fulton and Cortland Street Ferry Rail- way.....	1884	Greenpoint, Prospect Park and Green- wood.....	1866
Fulton Ferry and Canarsie Bay.....	1868	Greenpoint and Williamsbrgh.....	1864
Fulton Ferry and Prospect Park.....	1867	Greenwich and Johnsonville.....	1869
Fulton Ferry and Tenth Avenue.....	1865	Greenwich and Johnsonville.....	1874
Fulton and Oswego.....	1885	Greenwich and Johnsonville Railway..	1879
Fulton and Oswego Falls Street.....	1885	Greenwood and Coney Island.....	1872
Fulton Street Crosstown.....	1887	Hamilton Avenue and Prospect Park..	1869
Fulton, Wall Street and Cortland Street Ferries.....	1885	Hamilton Avenue, Prospect Park and Flatbush.....	1868
Gallupville.....	1869	Hamilton Ferry and Canarsie.....	1870
Garnerville.....	1875	Harlem Bridge Morrisania and Ford- ham.....	1863
Geddes Street Railway.....	1886	Harlem Crosstown.....	1885
Genesee Falls.....	1886	Harlem Extension.....	1870
Genesee and Hudson.....	1852	Harlem River.....	1883
Genesee Valley.....	1856	Harlem River and High Bridge.....	1853
		Harlem River and Port Chester.....	1867

## DATE WHEN COMPANIES FORMED.

Name of Road.	When formed.	Name of Road.	When formed.
Harlem River and Port Chester Rapid Transit .....	1880	Ithaca and Port Renwick .....	1834
Harlem River and Woodstock .....	1886	Ithaca Street .....	1885
Harlem River and Tarrytown .....	1864	Ithaca and Tonawanda .....	1866
Harlem and Riverdale Park .....	1885	Jackson and Steinway Avenue Railroad Company of Long Island .....	1879
Hayt's Corners, Ovid and Willard .....	1882	Jamaica and Brooklyn Road .....	1880
Hempstead and Jamaica .....	1885	Jamaica and Middle Village .....	1866
Hempstead and Smithtown .....	1873	Jamaica, Woodhaven and Brooklyn .....	1872
Hempstead and Rockaway .....	1870	Jamestown .....	1871
Herkimer and Mohawk Street .....	1871	Jamestown and Northern .....	1885
Herkimer, Newport and Poland Narrow Gauge .....	1880	Jamestown Short Line Railway .....	1886
Herkimer and Trenton .....	1836	Jamestown Street .....	1882
Hicksville and Cold Spring Branch .....	1853	Janessville .....	1836
Hicksville and Huntington, .....	1865	Jerome Park .....	1880
High Bridge .....	1866	Jerome Park Branch .....	1876
High Bridge Elevated Incline .....	1883	Jersey City and Albany .....	1873
Highland Junction .....	1881	Jersey City and Albany Railway .....	1879
Highland Trans-Hudson .....	1881	Jersey City and Albany Railway Com- pany of the States of New York and New Jersey .....	1879
Hobart Branch .....	1884	Jersey Ferries and First Avenue .....	1865
Honeoye .....	1836	Johnstown .....	1836
Hoosac Tunnel and Saratoga Railway, .....	1881	Johnstown, Gloversville and Kingsboro .....	1874
Hornellsville and Almond Street .....	1873	Jordan and Skaneateles .....	1837
Hornellsville and Conhocton Valley .....	1882	Junction .....	1870
Horseheads and Elmira Avenue .....	1871	Junction Railway .....	1865
Houston and Hoboken .....	1885	Kanona and Prattsburgh .....	1886
Houston, West Street & Pavonia Ferry, .....	1874	Kaaterskill .....	1882
Hudson Avenue .....	1867	Keeseville and Montreal .....	1869
Hudson and Berkshire .....	1828	Kinderhook, Valatie and Stuyvesant .....	1887
Hudson and Boston .....	1855	Kinderhook, Valatie and Niverville .....	1887
Hudson Connecting .....	1887	Kings Bridge Cable Railway .....	1886
Hudson and Delaware .....	1830	Kings Bridge, High Bridge and Forty- Second Street .....	1864
Hudson and Kinderhook .....	1871	Kings Bridge and Yonkers .....	1876
Hudson and Mohawk .....	1869	Kings County .....	1878
Hudson River .....	1846	Kings County Central .....	1876
Hudson River and Boston .....	1885	Kings County Elevated .....	1879
Hudson River West Shore .....	1867	Kingston City .....	1879
Hudson and St. Lawrence .....	1872	Kingston and Rondout .....	1865
Hudson, Suspension Bridge and New England .....	1870	Kingston Turnpike and Railroad Co. .....	1836
Hudson Tunnel .....	1873	Kingston, Warwick and Easton .....	1883
Hudson Tunnel .....	1880	Lackawanna and Pittsburgh .....	1882
Hudson Tunnel of New York .....	1880	Lake Champlain and Moriah .....	1868
Hudson Tunnel Railway .....	1881	Lake Champlain and Ogdensburgh .....	1832
Hudson Valley .....	1870	Lake Mahopac and Connecticut .....	1886
Hudson and West Shore .....	1860	Lake Ontario .....	1874
Hunters Point and Flushing .....	1872	Lake Ontario and Auburn .....	1886
Hunters Point, Bavenaw'd and Astoria, .....	1864	Lake Ontario, Auburn and New York .....	1882
Hunters Point and Rockaway Beach .....	1867	Lake Ontario and Hudson River .....	1857
Hunters Point and South Side .....	1870	Lake Ontario Shore .....	1868
Huntington Street .....	1887	Lake Ontario Southern .....	1880
Ilion Street .....	1875	Lake and River Improvement and Rail- road Land Company of the New York Wilderness .....	1865
International .....	1861	Lake Shore and Michigan Southern .....	1869
Iron Hill .....	1873	Lansingburgh and Cohoes .....	1880
Island .....	1883	Lansingburgh and Troy .....	1853
Ithaca and Athens .....	1870	Lansingburgh and Troy .....	1872
Ithaca and Auburn .....	1836	Laurel Hill, New Calvary and Lutheran Cemetery .....	1885
Ithaca, Auburn and Western .....	1876		
Ithaca and Cortland .....	1869		
Ithaca and Geneva .....	1832		
Ithaca and Oswego .....	1828		

Name of Road.	When formed.	Name of Road.	When formed.
Lawrenceville and Erie.....	1874	Middle Central.....	1878
Lebanon Springs.....	1852	Middletown and Crawford.....	1868
Lehigh and Hudson River.....	1882	Middletown Horse.....	1870
Lehigh Valley.....	1882	Middletown, Unionville and Water Gap.....	1866
Lehigh Valley.....	1882	Middle Village.....	1867
Lewiston.....	1836	Midwout, Amersfort and Coney Island.....	1877
Lexington Ave. and Fourteenth Street.....	1884	Mohawk and Hudson.....	1826
Lexington Avenue and South Ferry.....	1886	Mohawk and Ilion (horse).....	1870
Little Falls, Dolgeville & Piseco Lake.....	1883	Mohawk and Lake Erie Railway.....	1881
Liverpool and Syracuse.....	1868	Mohawk and Moose River.....	1857
Lockport and Batavia.....	1836	Mohawk and St. Lawrence Railroad	
Lockport and Buffalo.....	1871	Navigation Company.....	1837
Lockport and Niagara Falls.....	1834	Mohawk and Susquehanna Valley.....	1887
Lockport Street.....	1885	Mohawk Valley.....	1851
Lockport and Youngstown.....	1836	Mohawk Valley and Piseco.....	1868
Locust Grove and Brighton Beach.....	1879	Monroe and Greenwood Lake.....	1877
Long Beach Marine Railway.....	1881	Montague street Railway.....	1885
Long Island.....	1834	Montgomery and Erie.....	1866
Long Island City and Calvary Cemetery.....	1871	Monticello and Port Jervis.....	1868
Long Island City and Flushing.....	1881	Montreal and Plattsburgh.....	1868
Long Island City and Mahattan Beach.....	1883	Morris Avenue.....	1885
Long Island City and Maspeth.....	1873	Mount Prospect and Carroll Street.....	1878
Long Island City and Newtown.....	1883	Mount Vernon and Eastchester.....	1885
Long Island City and Sea Beach.....	1886	Mount Vernon and Yonkers.....	1885
Long Island City Shore.....	1874	Myrtle Avenue Branch.....	1881
Long Island Elevated Railway.....	1886	Nanuet and New City.....	1871
Madison Ave. and Eighty-Sixth Street.....	1885	Nassau.....	1865
Madison Ave. and Twenty-Third Street.....	1885	Nassau Cable.....	1884
Madison Avenue Underground.....	1880	Newark.....	1836
Madison County.....	1829	New Brighton and Onondaga Valley.....	1869
Mahopac Falls.....	1884	Newburgh, Dutchess and Connecticut.....	1877
Main and Ohio Street.....	1859	Newburgh Horse.....	1868
Malden.....	1837	Newburgh Horse.....	1882
Malden.....	1863	Newburgh Street Railway.....	1886
Malone and Canada.....	1883	Newburgh and Kingston.....	1869
Manhattan Beach Extension.....	1883	Newburgh and Middletown.....	1866
Manhattan Beach and West Brighton.....	1879	Newburgh and Midland.....	1870
Manhattan Railroad.....	1879	Newburgh and New York Railroad.....	1884
Manhattan Railway.....	1854	Newburgh and New York Railway.....	1865
Manhattan Railway.....	1867	Newburgh and Poughkeepsie.....	1887
Manhattan Surface.....	1887	Newburgh and Wallkill Valley.....	1868
Manheim and Salisbury.....	1834	New England, New York and Pennsyl-	
Maple Avenue.....	1887	vania.....	1878
Marginal.....	1877	New England, Lacka. and Pittsburgh.....	1883
Marine.....	1878	New England and Southwestern.....	1885
Maspeth Railroad and Bridge Company.....	1868	New England and Western.....	1887
Massena Springs and Fort Covington.....	1884	New Jersey and Hudson River.....	1881
Mayville Extension.....	1881	New Jersey and New England.....	1873
Mayville and Portland.....	1832	New Jersey and New York.....	1875
Mechanicville and Fort Edward.....	1880	New Jersey and New York Extension.....	1886
Medina and Darien.....	1884	New Jersey and Staten Island Junction.....	1886
Medina and Lake Ontario.....	1836	New Rochelle and Pelham.....	1885
Melrose and West Morrisania.....	1886	New Rochelle Street Horse Railroad.....	1885
Metropolitan Elevated.....	1878	New Rochelle Street Horse Railway.....	1885
Metropolitan Railroad.....	1864	Newtown and Flushing.....	1871
Metropolitan Railway.....	1864	New Williamsburgh and Flatbush.....	1874
Metropolitan Surface.....	1885	New York.....	1860
Metropolitan Surface.....	1886	New York and Albany.....	1832
Metropolitan Transit.....	1867	New York and Albany.....	1867
Metropolitan Transit.....	1872	New York and Atlantic.....	1880
Middleburgh and Schoharie.....	1867	New York and Atlantic Coast.....	1880



Name of Road.	When formed.	Name of Road.	When formed.
New York, Bay Ridge and Jamaica.....	1876	New York Railway.....	1871
New York and Boston.....	1869	New York, Richfield Springs and Cooperstown.....	1882
New York, Boston and Albany.....	1880	New York and Rockaway.....	1871
New York, Boston, Albany and Schenectady.....	1880	New York and Rockaway Beach.....	1876
New York and Boston Extension.....	1872	New York, Rockaway and Long Island.....	1880
New York, Boston and Montreal.....	1873	New York, Rutland and Montreal.....	1883
New York and Boston Inland.....	1882	New York and Sea Beach Railroad.....	1876
New York, Boston and Northern.....	1873	New York and Sea Beach Railway.....	1883
New York and Brighton Beach.....	1879	New York, Sea Beach and Coney Isl'd.....	1878
New York, Brooklyn Elevated.....	1880	New York and South Side.....	1874
New York and Brooklyn Marine.....	1880	New York State.....	1873
New York, Brooklyn and Rockaway.....	1881	New York Suburban Railway.....	1886
New York, Brooklyn and Sea Beach.....	1878	New York Surface Railway.....	1886
New York, Brooklyn and Sea Shore.....	1877	New York and Troy.....	1852
New York and Brighton Beach.....	1878	New York Tunnel.....	1880
New York Cable.....	1884	New York Underground.....	1880
New York and Canada.....	1872	New York Underground Extension.....	1874
New York Central.....	1853	New York, Utica and Ogdensburg.....	1870
New York District Railway.....	1886	New York and Westchester.....	1887
New York and Palisade.....	1885	New York, Westchester and Boston.....	1872
New York Central and Hudson River.....	1870	New York and Westchester County.....	1859
New York Central, Hudson River and Fort Orange.....	1884	New York, Westchester and Putnam.....	1877
New York Central Niagara River.....	1877	New York and Western.....	1853
New York, Chicago and St. Louis Railway.....	1881	New York Western Midland.....	1872
New York, Chicago and St. Louis.....	1887	New York, West Shore and Buffalo.....	1880
New York City.....	1884	New York, West Shore and Buffalo Railway.....	1881
New York City Crosstown.....	1863	New York, West Shore and Chicago.....	1870
New York City Underground.....	1868	New York and White Plains.....	1871
New York City and Northern.....	1878	New York, Woodhaven and Rockaway.....	1877
New York City Rapid Transit.....	1872	New York and Yonkers.....	1859
New York and Coney Island.....	1879	Niagara Bridge and Canandaigua.....	1858
New York, Coney Island and Rockaway.....	1879	Niagara Falls.....	1871
New York and Connecticut.....	1846	Niagara Falls Branch.....	1876
New York, Connecticut and Eastern of New York.....	1880	Niagara Falls, Buffalo and New York.....	1882
New York and Croton River.....	1871	Niagara Falls and Lake Ontario.....	1852
New York and Croton River Extension.....	1872	Niagara Falls and Lewiston.....	1849
New York, Danbury and Boston.....	1883	Niagara Falls and Suspension Bridge.....	1883
New York and East River.....	1882	Niagara Falls and Whirlpool Railway.....	1886
New York Elevated.....	1872	Niagara River.....	1852
New York and Erie.....	1832	Niagara River and New York Air Line.....	1872
New York and Flushing.....	1859	Niagara Street.....	1859
New York, Fordham and Bronx River.....	1883	Ninth Avenue.....	1859
New York, Fort Hamilton and Coney Island.....	1880	North and East Greenbush.....	1882
New York, Greenwood and Coney Isl'd.....	1879	North and East River.....	1885
New York Harbor.....	1887	Northern.....	1845
New York and Harlem.....	1831	Northern Adirondack.....	1883
New York and Hempstead.....	1871	Northern Adirondack Extension.....	1886
New York and Hempstead Plains.....	1870	Northern Air Line.....	1869
New York and Highland Suspension Bridge Company.....	1869	Northern Central New York.....	1867
New York, Housatonic and Northern.....	1864	Northern Extension of Rochester, Nunda and Pittsburgh.....	1872
New York and Jamaica.....	1859	Northern New York.....	1870
New York, Kingston and Syracuse.....	1872	Northern Railroad Company of Long Island.....	1881
New York, Lackawanna and Western.....	1880	Northern Slackwater and Railroad Co.....	1846
New York and Lake Mahopac.....	1861	North New York.....	1885
New York, Lake Erie and Western.....	1878	North Park.....	1872
New York and Long Beach.....	1880	North River.....	1880
New York and Long Island.....	1887	North River.....	1881
New York, Long Island and Rockaway.....	1879	North River and Wall Street Ferry.....	1862
New York and Mahopac.....	1871	North Second Street and Middle Village.....	1871
New York and Manhattan Beach.....	1877	North Side of Long Island.....	1867
New York and Newburgh.....	1854	North Side Railroad Company of Rochester.....	1887
New York and New England.....	1873	North Side (Staten Island).....	1871
New York and New Jersey.....	1873	North Shore.....	1863
New York and New Jersey Tunnel.....	1883	North Shore of Long Island.....	1870
New York and New Rochelle.....	1852	North Shore and Port Washington.....	1874
New York Northern.....	1866	Norwood and Montreal.....	1884
New York Northern.....	1880	Nostrand Avenue and Park.....	1870
New York Northern.....	1883	Nyack and Northern.....	1869
New York Northern Central.....	1865	Oak Hill Iron.....	1880
New York and North Salem.....	1871	Oatka Valley.....	1883
New York, Ontario and Western.....	1880	Ocean Bay and Sheephead Bay R'lway.....	1881
New York and Oswego Midland.....	1866	Ocean Palace Elevated.....	1877
New York, Pennsylvania and Ohio.....	1880	Ogdensburg.....	1887
New York, Pennsylvania and Western.....	1881	Ogdensburg, Clayton and Rome.....	1853
New York Quick Transit.....	1874	Ogdensburg and Lake Champlain.....	1864
		Ogdensburg and Morristown.....	1871

## DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Ogdensburgh and Morristown.....	1877	Poughkeepsie and Southeastern.....	1886
Ogdensburgh Street Railway.....	1885	Poughkeepsie and Southwestern.....	1883
Olean.....	1881	Poughkeepsie Terminal.....	1887
Olean, Bradford and Warren.....	1878	Prospect Park and Clarkson Street.....	1878
Olean Street.....	1880	Prospect Park and Coney Island.....	1887
Olean and Salamanca.....	1882	Prospect Park and Conay Island.....	1875
Oneida.....	1885	Prospect Park and Flatbush.....	1876
Oneida Horse.....	1874	Prospect Park and Sea Side.....	1879
Oneida Street.....	1887	Putnam and Dutches.....	1871
Oneida Valley.....	1884	Queen City Street.....	1887
One Hundred and Fifty-fifth Street.....	1886	Queens County.....	1871
One Hundred and Sixteenth Street and Fort Lee Ferry.....	1885	Queens Railway.....	1872
One Hundred and Twenty-fifth Street.....	1871	Rensselaerville and Berne.....	1869
Oneonta and Earlville.....	1872	Rensselaer and Saratoga.....	1882
Oneonta and Otego Valley.....	1887	Rhinebeck and 'Connecticut.....	1870
Ontario Southern.....	1876	Richfield Springs and Cherry Valley.....	1882
Orange County.....	1877	Richfield Springs and Otsego Lake.....	1886
Oswego, Binghamton and New York.....	1885	Richmond County.....	1883
Oswego City (Street).....	1870	Riker Avenue and Sanford's Point.....	1886
Oswego City and Town.....	1872	Rochester.....	1833
Oswego and Cortland.....	1836	Rochester Cable.....	1887
Oswego Northern and Eastern.....	1863	Rochester and Canal.....	1831
Oswego and Rome.....	1863	Rochester and Charlotte.....	1836
Oswego Street.....	1885	Rochester and Charlotte.....	1881
Oswego and Syracuse.....	1839	Rochester and Charlotte Boulevard.....	1873
Oswego and Troy.....	1884	Rochester City and Brighton.....	1882
Oswego and Utica.....	1836	Rochester Electric.....	1887
Otsego.....	1832	Rochester City and Brighton Terminal.....	1887
Otis Elevating Railway.....	1885	Rochester and Genesee Valley.....	1881
Ottawa, St. Lawrence and Schenectady.....	1885	Rochester and Genesee Valley Canal.....	1879
Ottawa, Waddington and New York Railway and Bridge Company of New York.....	1884	Rochester, Hornellsville and Lacka- wanna.....	1886
Owasco River Railway.....	1881	Rochester, Hornellsville and Pine Creek.....	1872
Oyster Bay Extension.....	1886	Rochester and Irondequoit.....	1878
Park Avenue.....	1870	Rochester and Lake Ontario.....	1882
Park Avenue.....	1882	Rochester and Lake Ontario.....	1879
Peekskill Valley.....	1887	Rochester, Lake Side and Braddock's Bay.....	1881
Pelham Park.....	1884	Rochester and Lockport.....	1837
Pelham and Portchester.....	1872	Rochester, Lockport and Niagara Falls.....	1850
Penfield and Canal.....	1837	Rochester, New York and Pennsylvania.....	1880
Pennsylvania and Erie Coal and Rail- way Company.....	1875	Rochester, New York and Pennsylvania.....	1881
Pennsylvania, Slatington and New England.....	1882	Rochester, Nunda and Pennsylvania.....	1870
Pennsylvania and Sodus Bay.....	1870	Rochester, Nunda and Pennsylvania.....	1872
Penn Yan and Geneva.....	1875	Rochester, Nunda and Pennsylvania's Ex.....	1872
Penn Yan and New York.....	1877	Rochester, Nunda and Pittsburgh.....	1877
People's.....	1880	Rochester and Ontario Belt.....	1882
People's, Syracuse.....	1887	Rochester and Pine Creek.....	1870
People's Surface Railway.....	1886	Rochester and Pittsburgh.....	1863
Perry.....	1882	Rochester and Pittsburgh.....	1881
Perth Amboy.....	1885	Rochester and Pittsburgh.....	1882
Piermont and Nyack.....	1864	Rochester and Southern.....	1862
Piermont West Shore.....	1887	Rochester and Southern.....	1881
Pine Plains and Albany.....	1872	Rochester State Line.....	1870
Pine Plains and Rhinebeck.....	1873	Rochester and Syracuse.....	1860
Pittsburgh, Lackawanna and North Eastern.....	1883	Rochester Terminal.....	1886
Pittsburgh, Titusville and Buffalo.....	1880	Rochester and Windsor Beach Railway.....	1881
Pittsburgh and Montreal.....	1850	Rockaway Beach and Far Rockaway Marine.....	1879
Pittsburgh and Rouse's Point.....	1881	Rockaway Beach Railroad.....	1871
Portage and Cuba Low Grade.....	1882	Rockaway Beach Transit.....	1881
Port Byron and Auburn.....	1829	Rockaway and Brooklyn.....	1863
Portchester and Tarrytown.....	1882	Rockaway Electric.....	1885
Portchester and Rye Beach Street.....	1887	Rockaway Elevated.....	1878
Port Dickinson and Chenango River.....	1881	Rockaway Railway.....	1871
Port Jervis and Monticello.....	1875	Rockaway Surf.....	1880
Port Morris and Westchester.....	1861	Rockaway Village.....	1886
Potsdam and Watertown.....	1882	Rockland Central.....	1870
Potsdam and Montreal.....	1881	Rockland Central Extension.....	1872
Poughkeepsie City.....	1866	Rockland Lake.....	1885
Poughkeepsie Connecting.....	1887	Rockland Lake and Valley Cottage.....	1882
Poughkeepsie and Delaware Valley.....	1887	Rome and Boonville.....	1882
Poughkeepsie and East.....	1866	Rome and Clinton.....	1869
Poughkeepsie Grand Junction.....	1879	Rome and Port Ontario.....	1837
Poughkeepsie and Grand Junction.....	1879	Rome City Street Railway.....	1885
Poughkeepsie, Hartford and Boston.....	1875	Rome Street.....	1874
Poughkeepsie, Hartford and New Eng- land.....	1887	Rome, Watertown and Ogdensburgh.....	1860
		Rome, Watertown and Ogdensburgh Terminal.....	1886
		Rondout and Kingston.....	1863
		Rondout and Oswego.....	1866



Name of Road.	When formed.	Name of Road.	When formed.
Rondout and Port Jervis Railroad.....	1865	Skaneateles.....	1836
Roslyn and Huntington.....	1874	Skaneateles.....	1866
Rutland and Whitehall.....	1836	Skaneateles and Jordan.....	1911
Rye Lake.....	1874	Smithtown and Port Jefferson.....	1870
Rye and Westchester.....	1871	Sodus Bay and Corning.....	1872
Sacandaga Valley.....	1871	Sodus Bay, Corning and New York.....	1870
Sackett's Harbor and Ellisburgh.....	1851	Sodus Bay and Southern.....	1883
Sackett's Harbor, Rome and New York.....	1860	Sodus Point and Southern.....	1852
Sackett's Harbor and Saratoga.....	1852	South Brooklyn.....	1878
Sackett's Harbor and Watertown.....	1855	South Brooklyn and Bergen Street.....	1863
Sackett Street.....	1866	South Brooklyn and Flatbush.....	1866
St. Lawrence Valley.....	1873	South Brooklyn Central.....	1877
St. Nicholas Avenue and Croastown.....	1885	South Brooklyn Street.....	1886
Salamanca, Bedford and Alleghany River.....	1881	South Brooklyn and Park.....	1870
Salamanca and Warren.....	1881	South Cairo and East Durham.....	1881
Salina and Oakwood Railway.....	1886	Southern Boulevard.....	1885
Salina and Port Watson.....	1829	Southern Central.....	1866
Saratoga and Fort Edward.....	1832	Southern Hempstead Branch.....	1875
Saratoga and Hudson River.....	1864	Southern of Long Island.....	1874
Saratoga Lake.....	1880	Southern Westchester.....	1871
Saratoga Street.....	1887	South Ferry.....	1874
Saratoga and Montgomery.....	1836	South Ferry and Prospect Park.....	1874
Saratoga and Mt. McGregor.....	1882	South Ferry and Sea Side Direct Tran- sit.....	1881
Saratoga, Mt. McGregor and Lake George.....	1882	Southfield Branch.....	1868
Saratoga and Schenectady.....	1831	South Side Connection.....	1868
Saratoga, Schuylerville and Hoosac Tunnel.....	1870	South Side of Long Island.....	1861
Saratoga Springs and Schuylerville.....	1832	Speers' Quick Transit.....	1879
Saratoga and St. Lawrence.....	1885	Springville and Sardinia.....	1878
Saratoga and Washington.....	1834	Spruycer Duvyl and Port Morris.....	1869
Saratoga and Whitehall.....	1855	Squaw Island.....	1884
Schenectady, Albany and North Adams.....	1882	State Line and Eastern.....	1879
Schenectady and Catskill.....	1846	State Line and Stony Point.....	1886
Schenectady and Catskill.....	1863	Staten Island.....	1836
Schenectady City.....	1873	Staten Island.....	1852
Schenectady and Duaneburgh.....	1873	Staten Island.....	1873
Schenectady and Mechanville.....	1867	Staten Island Belt Line.....	1887
Schenectady and Ogdensburg.....	1872	Staten Island Central.....	1871
Schenectady and Ogdensburg Nar- row Gauge.....	1882	Staten Island Horse.....	1866
Schenectady and Susquehanna.....	1846	Staten Island Northern.....	1886
Schenectady and Susquehanna.....	1869	Staten Island North and South Shore.....	1881
Schenectady and Susquehanna.....	1870	Staten Island Rapid Transit.....	1890
Schenectady Street Railway.....	1886	Staten Island Shore.....	1864
Schenectady and Troy.....	1836	Staten Island Shore.....	1869
Schenectady and Utica Railway.....	1865	Staten Island Terminal.....	1883
Schoharie and Otsego.....	1832	Steinway Avenue and Bowery Bay.....	1883
Schoharie Street.....	1872	Steinway and Hunters Point.....	1883
Schoharie Valley.....	1865	Sterling Mountain.....	1864
Schoharie Valley.....	1874	Stillwater and Mechanville Street.....	1883
Schoharie Valley Railway.....	1880	Stony Clove and Catskill Mountain.....	1881
Schuylerville and Fort Edward.....	1870	Suspension Bridge and Erie Junction.....	1869
Schuylerville and Moreau.....	1870	Syracuse.....	1886
Schuylerville and Upper Hudson.....	1869	Syracuse and Baldwinsville.....	1851
Schuylerville and Upper Hudson.....	1872	Syracuse and Binghamton.....	1857
Scottsville and Canandaigua.....	1838	Syracuse, Binghamton and New York.....	
Scottsville and Le Roy.....	1836	Syracuse Branch, New York, Utica and Ogdensburg.....	1871
Sea Beach and Brighton.....	1886	Syracuse and Chenango.....	1873
Sea Beach and Sheephead Bay.....	1886	Syracuse and Chenango Valley.....	1868
Sea Breeze Avenue.....	1881	Syracuse, Chenango and New York.....	1877
Sea Cliff Inclined Cable Railway.....	1885	Syracuse Connecting Railway.....	1866
Sea Side Elevated.....	1880	Syracuse, Cortland and Binghamton.....	1836
Sea Side Transit.....	1880	Syracuse, Fayetteville and Manlius.....	1867
Sea View.....	1886	Syracuse and Geddes.....	1863
Sea View of Coney Island.....	1880	Syracuse, Geneva and Corning.....	1875
Second Avenue.....	1853	Syracuse Junction.....	1873
Sedge Bank.....	1876	Syracuse Mineral Springs.....	1867
Seneca Falls and Cayuga Lake.....	1886	Syracuse Northern.....	1868
Seneca Falls, Restvale and Cayuga Lake Street.....	1886	Syracuse and Northern.....	1875
Seneca Falls and Waterloo.....	1871	Syracuse and North-western.....	1869
Seneca Lake Branch.....	1868	Syracuse and North-western.....	1874
Seventh Ward Railway.....	1886	Syracuse and Onondaga.....	1836
Sharon and Root.....	1838	Syracuse and Onondaga.....	1863
Sheephead Bay and Coney Island.....	1877	Syracuse and Ontario.....	1882
Sheephead Bay and Sea Shore.....	1865	Syracuse, Ontario and New York.....	1883
Silver Lake.....	1869	Syracuse, Phoenix and Ontario.....	1883
Silver Lake.....	1877	Syracuse, Phoenix and Oswego.....	1872
Sixth Avenue.....	1852	Syracuse, Phoenix and Oswego.....	1885
		Syracuse and Rochester Direct.....	1885
		Syracuse and South Bay.....	1888
		Syracuse and Southern.....	1885

# DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Syracuse and South-western.....	1876	Utica, Chenango and Susquehanna Valley.....	1866
Syracuse and South-western.....	1877	Utica City.....	1862
Syracuse Stone.....	1836	Utica, Clinton and Binghamton.....	1868
Syracuse and Utica.....	1836	Utica and Deerfield Street.....	1871
Syracuse, Utica, Direct.....	1863	Utica and Fairground.....	1876
Tenth Avenue and Grand Street.....	1860	Utica, Georgetown and Elmira.....	1870
Terminal Underground.....	1886	Utica, Horseheads and Elmira.....	1870
Third Avenue.....	1853	Utica and Ilion Narrow Gauge.....	1877
Third Avenue and Fordham.....	1861	Utica, Ithaca and Elmira.....	1872
Third Street (Newburgh).....	1887	Utica, Ithaca and Elmira Railway Co.....	1878
Third Ward Railway.....	1886	Utica and Mohawk.....	1874
Thirty-eighth and Thirty-ninth Street.....	1884	Utica and Mohawk (Street).....	1869
Crosstown.....	1885	Utica and Schenectady.....	1883
Thirty-first Street.....	1885	Utica and Susquehanna.....	1832
Thirty-fourth Street.....	1884	Utica and Syracuse Air Line.....	1880
Thirty-fourth St. Ferry and Eleventh Avenue.....	1885	Utica and Syracuse Railway.....	1866
Thirty-second Street.....	1880	Utica and Waterville.....	1854
Tioga and Erie.....	1866	Utica and Waterville.....	1867
Tioga and Savonia.....	1875	Valley.....	1869
Tonawanda.....	1832	Van Brunt Street and Erie Basin.....	1861
Tonawanda, Genesee Valley and Pine Creek.....	1862	Wallkill Valley.....	1877
Tonawanda Valley.....	1880	Wallkill Valley Railway.....	1866
Tonawanda Valley and Cuba.....	1881	Warren County.....	1832
Tonawanda Valley and Cuba.....	1881	Warren, Sugar Grove and Mayville.....	1885
Tonawanda Valley Extension.....	1861	Warsaw and Le Roy.....	1854
Tonawanda, Wiscoy and Genesee Valley.....	1882	Warwick.....	1837
Transit.....	1872	Warwick Valley.....	1860
Trenton and Sackett's Harbor.....	1837	Washington County.....	1887
Troy and Albion.....	1866	Washington County Central.....	1855
Troy and Averill Park.....	1886	Washington Street and State Asylum.....	1872
Troy and Bennington.....	1851	Water and Clinton Street.....	1873
Troy and Boston.....	1849	Waterford and Cohoes.....	1863
Troy and Chatham.....	1882	Waterford and Cohoes.....	1883
Troy City.....	1867	Watertown and Cape Vincent.....	1836
Troy and Cohoes.....	1862	Watertown and Rome.....	1832
Troy and Greenbush.....	1845	Watertown Street Railway.....	1887
Troy and Lansingburgh.....	1860	Watervliet and Schenectady.....	1836
Troy and Rutland.....	1849	Watervliet Turnpike and Railroad Co.....	1862
Troy and Saratoga.....	1871	Watkins and Havana Street.....	1872
Troy and Stockbridge.....	1836	Waverly and State Line.....	1867
Troy and Susquehanna.....	1871	Wellsville, Bolivar and Eldred.....	1881
Troy Turnpike and Railroad.....	1831	Wellsville, Oudersport and Pine Creek.....	1882
Troy Union.....	1851	Wellsville and Fillmore.....	1882
Troy and Utica.....	1853	Wellsville, Honeoye and Ceres.....	1882
Tunnel Extension.....	1882	Westchester.....	1863
Twenty-eighth and Thirtieth Street.....	1884	Westchester County.....	1856
Twenty-eighth and Twenty-ninth St. Crosstown.....	1885	Westchester County.....	1878
Twenty-third Street.....	1869	Westchester County.....	1884
Twenty-third Street.....	1872	Westchester County and New York City.....	1860
Twenty-third Street District Railway.....	1886	Westchester Railway.....	1881
Tyrone and Geneva.....	1837	West End and Glenwood.....	1876
Ulster County.....	1836	Westfield and Chautauqua.....	1886
Ulster and Delaware.....	1875	Westport and Kingdom.....	1868
Unadilla and Schoharie.....	1836	West Shore.....	1863
Union.....	1851	West Shore.....	1886
Union (Buffalo).....	1869	West Shore Hudson River.....	1868
Union Elevated.....	1886	West Shore and International Bridge.....	1882
Union Passenger Railway and Transportation Company of New York.....	1885	West Side.....	1854
Union Pneumatic Railway.....	1867	West Side Elevated Patent Railway.....	1868
Union Railroad Company.....	1857	West Side of Rochester.....	1887
Union of the City of Brooklyn.....	1884	West Side Street.....	1887
Union (Syracuse).....	1852	West Side and Yonkers Patent.....	1866
Union and Syracuse Straight Line.....	1852	West Troy and Green Island.....	1871
Union Terminal of the City of Buffalo.....	1884	Whitehall and Plattsburgh.....	1833
Union Village and Johnsonville.....	1867	Whitehall and Plattsburgh.....	1866
Union (of Westchester).....	1859	Whitehall and Rutland.....	1833
United States and Canada.....	1883	Whitestone and Westchester.....	1872
United States Harvey-Way Construction Company.....	1882	Williamsburgh and Coney Island.....	1864
Upper Hudson.....	1872	Williamsburgh and Flatbush.....	1866
Up-Town Fifth Avenue.....	1885	Williamsburgh and Newtown.....	1866
Utica Belt Line Street.....	1886	Williamsport and Elmira.....	1850
Utica and Binghamton.....	1853	Williamstown and Redfield.....	1865
Utica and Black River.....	1861	Woodlawn and Butternut Street.....	
Utica, Chenango and Cortland.....	1870	Yates Avenue and Flatbush.....	
		Yonkers.....	
		Yonkers.....	
		Yonkers and New York.....	
		Yonkers Rapid Transit.....	
		Yonkers Street.....	

This letter, which sets forth the improvements and betterments made by the Rome, Watertown and Ogdensburgh Railroad Company since the date of the report of the inspector, printed on page 172, was received too late to be appended to the inspector's report.

NEW YORK, December 15, 1887.

Board Railroad Commissioners, Albany, N. Y.:

GENTLEMEN—Referring to your recent report of our road, the following are some of the betterments that have been made since your inspection, a little over two years ago. New cross-ties have been laid, amounting to 43½ per cent. of all the track, of which seven-eighths are oak, chestnut, tamerack and cedar; 115 miles of steel rails have been laid, of which 30 miles were laid on new branches of the road.

From the 85 miles iron rails removed, good rails were selected sufficient to make balance of iron rails in track perfect.

Twenty-six spans of new iron, pin-connected, lattice and plate girder bridges, in all 1,819 feet in length, have been erected, according to Theodore Cooper's specifications, of which 799 feet were erected on new branches; 80 miles of road thoroughly ballasted, 49 miles of which are on main line; 7 locomotives, 18 passenger coaches, 50 gondolas, 250 box-cars purchased; 520 box, gondola and platform cars rebuilt; 45 stations repaired and painted, 7 new stations built, 284 standard steel frogs and 163 safety switches laid; 172 miles of barb-wire fence has been erected; 263 miles of telegraph line has been built, the entire telegraph line on our road being now owned by this company. Two more iron bridges have been contracted for, to be built this winter, and two others will be erected next spring. Since August, when your inspector was over the road, repairs and renewals on openings (the bulk of which have masonry abutments), bridges, ties and buildings have been quite extensive, and under date of December 6, Superintendent Hammond, in a report upon our Eastern division, says: "In my opinion, the condition of the road-bed in the last two years has been very much improved." Superintendent Jones, of the Middle division, reports: "Within two years there have been decided improvements between Ogdensburgh and De Kalb, Norwood and Rome, Watertown Junction and Cape Vincent, and Watertown Junction and Sackett's Harbor. Hard pine timber has taken the place of hemlock, formerly used in openings, and such as needed have had masonry abutments; steel rails for iron for many miles, and many miles of new fence." George Keith, road-master on the Eastern division, reports: "Masonry has been rebuilt, and hard pine stringers put in all openings where necessary, and I must say I consider the track in first-class condition." S. Littlefield, road-master of Western division, west of Richland, reports: "To my certain knowledge, the track has never been in such good condition; the ties for the whole division are in excellent condition." D. A. Hough, master carpenter, reports: "I consider that the buildings, bridges, openings, etc., are in better shape than I have ever seen them, and I have been with the road for the past twelve years."

Yours truly,

CHARLES PARSONS,  
*President.*

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## RAILROAD LAWS.

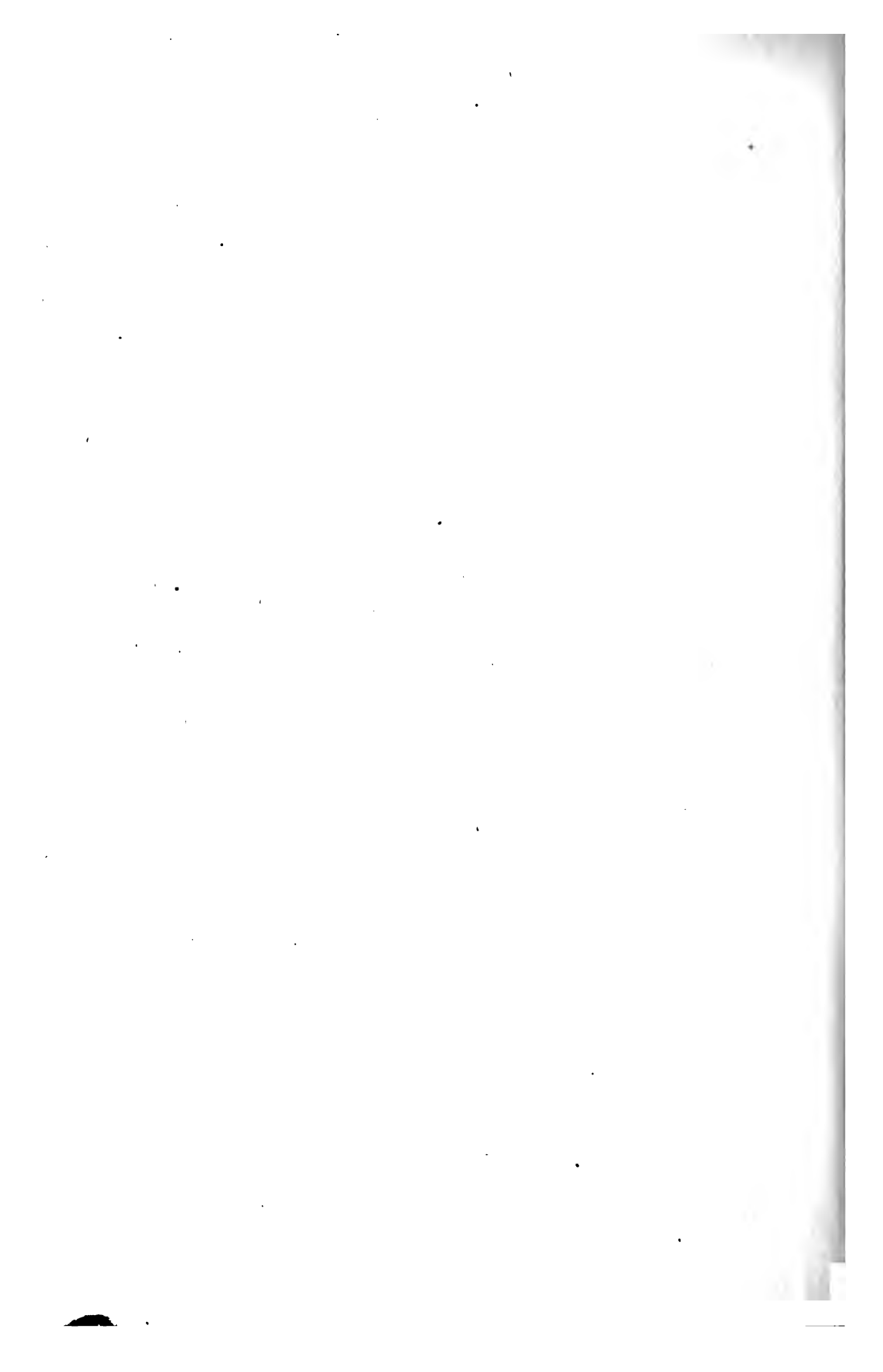
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THE GENERAL ACT OF 1850, AS AMENDED BY SUBSEQUENT ACTS—REVISED STATUTES REFERRED TO IN SECTION 1, CHAPTER 140, LAWS OF 1850—STATUTES RELATING GENERALLY TO RAILROADS—SECTIONS OF THE CRIMINAL AND PENAL CODES APPLYING TO RAILROAD CORPORATIONS—“AN ACT TO REGULATE COMMERCE, COMMONLY KNOWN AS THE INTERSTATE COMMERCE ACT.”

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COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.

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# GENERAL RAILROAD ACT.

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- Section 1.** Manner of organisation; articles to be filed in office of Secretary of State.
- Section 2.** Conditions of filing.
- Section 3.** Evidence of incorporation.
- Section 4.** Manner of subscribing for additional stock.
- Section 5.** Directors and their election; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.
- Section 6.** Officers, how appointed.
- Section 7.** Subscriptions, how paid and how forfeited.
- Section 8.** Stock declared personal estate; company prohibited from purchasing the same.
- Section 9.** Capital stock; how it may be increased; notice to be published; penalties for violation.
- Section 10.** Liabilities of stockholders.
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- Section 12.** Payment of laborers' wages; liability of railroad company; notice to be given railroad company. and what to state; how verified and served; when actions to be commenced.
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- Section 22.** Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer, on commission, must concur; determination, map and testimony to be filed; appeals; a court may affirm route or adopt alteration; the pay of commissioners.
- Section 23.** Directors may change route; survey; may acquire land; alteration in city or village; compensation; prohibits alteration when certain bonds have been issued.
- Section 24.** Crossings and intersections; how additional lands for, taken.

Section 25. State lands, how acquired by company.

Section 26. Title, how acquired; when trustees, guardian or committee are not authorized to sell.

Section 27. Weight of iron rails on grades, etc.; how to apply act.

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3. May purchase, hold and use real estate; reference to Indian lands.
4. Construction of road.
5. May construct road across any stream, canal and highway; bridges or obstruction prohibited; streets in cities not to be used without consent of corporation, nor along highways, without order of Supreme Court.
6. Right to cross, intersect, etc., other railroads; proceeding in case two railroads cannot agree; companies shall receive from such other and forward freight.
7. Conveyance of passengers and property.
8. Buildings and stations.
9. Time and manner of transportation, and rates of fare.
10. May borrow money necessary for completion or operation of road.

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Section 30. Conductors and servants to wear badges.

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Section 43. Penalties; how sued for.

Section 44. Fencing; penalty for driving animals on railroads; unlawful to walk upon track.

Section 45. Maps to be filed with State Engineer and Surveyor and in county clerks' offices; scale of maps.

Section 46. Duty of passengers.

Section 47. Road, when to be commenced and finished.

Section 48. Legislative power to dissolve.

Section 49. What sections of this law applicable to existing corporations.

Section 50. General repeal.

Section 51. New York and Erie Railroad.

### **Manner of organization; articles to be filed in office of Secretary of State.**

SECTION 1. Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road, as near as may be, and the name of each county in this State through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place



of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the Secretary of State, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title.

See title 3 of chap. 18 of the first part of the Revised Statutes referred to in above section, pages 336, 337 hereof.

Also amended certificates, § 1, chap. 829, Laws of 1872, page 349 hereof.

See chap. 135, Laws of 1870, at page 406 hereof.

Part of line in another State, chap. 19, Laws of 1851, page 349.

As to reorganization, see chap. 430, Laws of 1874, page 367 hereof.

Cable Roads, see chap. 697, Laws of 1866, page 338 hereof.

Elevated Roads, see chap. 606, Laws of 1875, page 375 hereof.

Narrow Gauge Roads, see §§ 5, 6, 7, chap. 560, Laws of 1871, pages 347, 348 hereof.

Street Roads, see chap. 252, Laws of 1884, page 396 hereof.

To operate roads in foreign countries, see chap. 468, Laws of 1881, page 351 hereof.

### **Conditions of filing.**

§ 2. Such articles of association shall not be filed and recorded in the office of the Secretary of State, until at least \$1,000 of stock for every mile of railroad proposed to be made is subscribed thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

Organization tax must be paid before same can be filed. Chap. 143, Laws of 1886, p. 431 hereof.

### **Evidence of incorporation.**

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the Secretary of this State, or his deputy shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

### **Manner of subscribing for additional stock.**

§ 4. When such articles of association and affidavit are filed and recorded in the office of the Secretary of State, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

**Directors and their election; their numbers; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.**

§ 5. There shall be a board of thirteen directors of every corporation formed under this act to manage its affairs, and said directors shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors each stockholder shall be entitled to one vote personally or by proxy, on every share held by him thirty days previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of

directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen; and at every election of directors the books and papers of such company shall be exhibited to the meeting if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage executed by such corporation, or execution issued upon any judgment or decree of any court shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association as prescribed by this act. Such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises and be subject to all the provisions of said act. The purchaser or purchasers or the grantee or grantees of any purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage, or by virtue of any judgment, decree or order of any court having jurisdiction in the premises, may associate with him or them any number of persons and make and acknowledge and file articles of association as prescribed by the first section of this act; such articles shall be entitled to be filed when there is indorsed thereon an affidavit made by at least three of the directors named in said articles, that it is intended in good faith to maintain and operate the road mentioned in such articles, and upon the filing thereof, so indorsed, the parties making such articles of association and their associates, shall thereupon be a corporation with all the powers, privileges and franchises, and subject to all the provisions of this act. Nothing herein contained shall be construed to authorize any company organized under this act to charge any greater rate of fare than they were authorized by law to charge previous to such reorganization. (*Thus amended, Laws of 1854, chap. 282, and Laws 1873, chap. 710.*)

Stockholders' meeting. See chap. 510, Laws of 1880, page 409 hereof.

When railroad does not exceed twenty miles in length board of directors may consist of seven stockholders. See chap. 582, Laws of 1864, at page 359 hereof.

Directors may postpone election. See chap. 586, Laws 1875, at page 408 hereof, and chap. 317, Laws of 1881, at page 406 hereof.

Authorizing change in time and place of holding elections. See chap. 498, Laws of 1885, page 406.

#### **Officers, how appointed.**

§6. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

#### **Subscriptions, how paid and how forfeited.**

§7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all the previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

#### **Stock declared personal estate; company prohibited from purchasing the same.**

§8. The stock of every company formed under this act shall be deemed personal estate and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully

paid in; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own or in any other corporation.

**Capital stock; how it may be increased; notice to be published; penalties for violation.**

§ 9. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, and the written approval of the State Engineer and Surveyor, until such time as there shall be appointed a board of railroad commissioners, and after that with the written approval of such board increase its capital stock from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid. A copy of such notice shall also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State Engineer and Surveyor, until such time as a Board of Railroad Commissioners shall be appointed, and after that time by such Board, and in no case, and under no circumstances, shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months and by fine not exceeding \$1,000. (*Thus amended, Laws of 1880, chap. 133.*)

Stock may be reduced. See chap. 264, Laws 1878, at page 345 hereof.

Preferred stock may be exchanged for common. See chap. 225, Laws of 1880, at page 346 hereof.

When stock insufficient for reorganization it may be increased. Chap. 155, Laws 1880, at page 371 hereof.

**Liabilities of stockholders.**

§ 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' services he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefore within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself; and all laws whereby the stockholders, officers and agents of any railroad corporation are made individually liable for the debts or liabilities of such corporation beyond the provisions contained in the act entitled "An act to authorize the formation of rail-

road corporations, and to regulate the same," passed April 2, 1850, and the acts amending the same, are hereby repealed. (*Thus amended by Laws of 1854, chap. 282.*)

See chap. 230, Laws of 1854, page 360 hereof.

See § 8, chap. 392, Laws of 1875, at page 393 hereof.

### **Representative stock.**

§ 11. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator, or intestate, or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

### **Payment of laborer's wages; liability of railroad company; notice to be given railroad company and what to state; how verified and served; when actions to be commenced.**

§ 12. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the months and particular days of the month upon which labor was performed and remains unpaid for, the price per day, the amount due, with the name of the contractor from whom due, the section of the road performed, and shall be signed by such laborer or his attorney, to which notice an affidavit shall be annexed, made by such laborer or his attorney, to the effect that of his own knowledge the statements contained in such notice are in all respects true. Such notice, so verified, shall be served on an engineer, agent or superintendent employed by said company having charge of the section of the road on which such labor was performed, personally or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company, under the provisions of this section, unless the same is commenced after ten and within thirty days after the notice is given to the company by such laborer as above provided. (*Thus amended by Laws of 1871, chap. 669.*)

As to lien of employees for labor, see Laws 1875, chap. 392, at pages 392, 393. Also Laws 1885, chap. 376, page 393.

To extend to bridges and trestles, see Laws of 1870, chap. 529, page 393 hereof.

### **How title to real estate is acquired.**

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

Special estates, how acquired, see chap. 521, Laws of 1857, § 2, at page 364 hereof.

As to streets or avenues in cities or villages, see § 2, chap. 198, Laws of 1876, page 365 hereof.

May purchase and hold real estate in other states, see § 2, chap. 586, Laws of 1875, at page 408 hereof.

See chap. 282, Laws of 1854, page 340 hereof.

### **By petition to Supreme Court; allegations necessary; copy petition upon whom served.**

§ 14. For the purpose of acquiring such title, the said company may present a petition praying for the appointment of commissioners of appraisal to the Supreme Court, at any general or special term thereof held in the district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a

description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been in good faith subscribed as required by this act; that the company has surveyed the line or route of its proposed road, and made a map or survey thereof, by which such route or line is designated, and that they have located their said road according to such survey, and filed certificates of such location, signed by a majority of the directors of the company, in the clerk's office of the several counties through or into which the said route is to be constructed; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can, by reasonable diligence, be ascertained, who own or have, or claim to own or have estates or interests in the said real estate; and if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the Supreme Court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

See § 1, chap. 53, Laws of 1853, at page 365 hereof; and chap. 515, Laws 1867, page 344 hereof.

Notice to be given where land forms part of street, chap. 198, Laws 1876, at page 365 hereof.

#### **How served on residents.**

1. If the person on whom such service is to be made resides in this State, and is not an infant, idiot, or person of unsound mind, service of a copy of such petition and notice must be made on him, or his agent or attorney, authorized to contract for the sale of the real estate described in the petition, personally, or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age.

#### **How served on non-residents, if residence known; copy to be sent by mail.**

2. If the person on whom such service is to be made resides out of the State, and has an agent residing in this State, authorized to contract for the sale of the real estate described in the petition, such service may be made on such agent, or on such person personally out of the State; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in the State paper, and in a paper printed in the county in which the land to be taken is situated, once in each week for one month next previous to the presentation of the petition. And if the residence of such person residing out of this State, but in any of the United States, or any of the British colonies in North America, is known, or can, by reasonable diligence, be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed, to such person at the post-office nearest his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

#### **How served on infants.**

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this State, such service shall be made as aforesaid, on his general guardian; or, if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

#### **How served on idiots.**

4. If the person on whom such service is to be made is an idiot, or of unsound mind,

and resides in this State, such service may be made on the committee of his person or estate; or, if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

**Service where residence is unknown.**

5. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, then such service may be made, under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to be affected by the proceedings, in the State paper, and in a paper printed in the county where the land is situated, once in each week for one month previous to the presentation of such petition.

**Court to appoint guardian for infants and idiots.**

6. In case any party to be affected by the proceedings is an infant, idiot, or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings; but if a general guardian or committee has been appointed for such person in this State, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot, or person of unsound mind; and the court may require such security to be given by such general or special guardian or committee, as it may deem necessary to protect the rights of such infant, idiot, or person of unsound mind; and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee.

**Service in cases not enumerated.**

7. In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings authorized by this act may be made as the Supreme Court shall direct.

**Appraisal of damages.**

§ 15. On presenting such petition to the Supreme Court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all or any of the persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county or some adjoining county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of the commissioners. (*Thus amended by Laws of 1854, chap. 282.*)

**Commissioners of appraisal; commissioners to make report to Supreme Court.**

§ 16. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet except by appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties interested, or their agent or attorney. They shall view the premises described in the petition and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing and after the testimony in such case is closed, they, or a majority of them, all being present, shall, without any unnecessary delay, and before proceeding to the examination of any other claim, ascertain and determine the compensation which ought justly to be made by the company to the owners or persons interested in the real estate appraised by them; and in fixing the amount of such

compensation said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the construction of the proposed railroad or the construction of the proposed improvement connected with such road for which such real estate may be taken. But in case such real estate shall belong to any other railroad company the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They, or a majority of them, shall also determine what sum ought to be paid to the general or special guardian or committee of an infant, idiot or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared for costs, expenses and counsel fees. The said commissioners shall make a report of their proceedings to the Supreme Court, with the minutes of the testimony taken by them, if any, and they shall be entitled to five dollars for services and expenses for every day they are actually engaged in the performance of their duties, to be paid by the company, except where the owners or persons interested in the real estate fail to have awarded them more than the amount of compensation offered them by the company before the appointment of commissioners, then to be paid by the said owners or persons interested, or if not paid by them, to be paid by the company and deducted from the amount awarded. Nothing herein is to affect or apply to any action pending or proceeding begun before the 31st day of December, 1880. (*Thus amended, Laws of 1883, chap. 382.*)

Appraisal not affected by transfer of property, § 6, chap. 282, Laws 1864, at page 340 hereof.

**On report being made, company to give notice; report, how confirmed.**

§ 17. On such report being made by said commissioners the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

Further power of court, see § 5, chap. 282, Laws 1864, at page 340 hereof.

Proceedings not affected by transfer of property, § 6, chap. 282, Laws 1864, at page 340 hereof.

**Order where to be recorded; its effect when the company neglects to have order recorded; real estate thus acquired for public use; appeals when heard; new appraisal.**

§ 18. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated, and thereupon and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses and counsel fees, as aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purposes of its corporation during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in such real estate during the corporate existence of the company, as aforesaid. If the company shall neglect to have such order recorded and to make the payment or deposit, as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may, at his election, cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. Except, nevertheless, the company may abandon such proceedings by filing within thirty days, after notice, in writing, of such recorded order, in the office of such clerk a notice of its determination to do so, and pay-



ing the reasonable costs and expenses of such party, to be ascertained and adjusted on motion by the court making such order. But in case of such abandonment, the company shall not renew proceedings to acquire title to such lands without a tender or deposit in court of the amount of said award and the interest thereon. All real estate acquired by any company under and pursuant to the provisions of this act for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventeenth section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be paid by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct, and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised, and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession. (*Thus amended, Laws of 1876, chap. 198.*)

#### **Adverse claims to compensation; how settled.**

§ 19. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

#### **Protection of unknown parties amending proceedings.**

§ 20. The court shall appoint some competent attorney to appear for, and protect the rights of, any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

#### **Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.**

§ 21. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession to continue in possession; and if not in possession, to take possession, and use such real estate during the pendency, and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained, and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same. And if at any time after the construction of any railroad operated by steam by any company now existing, or that may hereafter be created, such company, or any com-

pany owning, operating, or leasing such railroad, or any mortgagee or mortgagees in possession of such railroad, or person or persons appointed by any court of competent authority as receiver or receivers of any such railroad, and in the possession of and operating the same, shall require, for the purposes of its incorporation, or for the purpose of running or operating any railroad so owned, leased or possessed as aforesaid, any real estate in addition to what has been already acquired for the purposes of such railroad, or shall require any further right to lands, or the use of lands for switchos, turnouts, or for filling any structures of, or for constructing, widening, or completing therewith or thereon any embankments, or the road-bed of such railroad, when thereby greater safety or permanency may be secured, and such lands shall be contiguous to such railroad, and reasonably accessible to the place where the same are to be used for such purpose or purposes, or for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary to the operation of such railroad; or any right to take and convey water from any spring, pond, creek, or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same; or any right of way required for carrying away or diverting any waters, streams, or floods from such railroad, for the purpose of protecting the same, or for the purpose of preventing any embankment, excavation, or structure of such railroad from injuring or damaging the property of any person or parties who may be rendered liable to injury by such embankment, excavation or structure, as the same may have been constructed previous to such time, or may then exist; such company, or mortgagee or mortgagees, person or persons in possession as aforesaid, may acquire such additional real estate, or any property or real estate which they now use or occupy, or right of way or other rights hereinbefore specified by purchasing the same of the person or parties owning the same, or interested therein, or to be affected thereby, and by paying to such parties such damages as they may sustain by reason thereof, if the amount of such compensation or damages can be agreed upon between such company, or mortgagee or mortgagees, person or persons in possession, and such owner or owners, or parties interested in such additional real estate; and if such company, or mortgagee or mortgagees, person or persons in possession shall for any cause be unable to agree for the purchase of such real estate, or right of way, or other rights, or shall be unable to agree upon the sum which shall be paid to such persons or parties in satisfaction of the damages they may sustain, or if the title to any such real estate, or right of way, or other rights already acquired or attempted to be acquired, shall for any cause prove defective or imperfect, then, and in every such case, such company, or mortgagee or mortgagees, person or persons in possession of and operating as aforesaid any such railroad, may proceed to acquire or perfect title to such real estate, or right of way, or other rights, and to ascertain and appraise such damages in the manner and by the proceedings hereinbefore in this act prescribed. Nothing in this act contained shall authorize the taking of any waters that shall at the time of such taking be commonly used for domestic, agricultural or manufacturing purposes to such an extent as to injuriously interfere with such use in the future. And nothing in this act contained shall authorize any railroad corporation to acquire any such gravel lands not contiguous to its right of way, nor shall it be lawful for any railroad company, or any company herein named, to take or acquire, other than by mutual agreement, any right or easement in or to any lands or real estate owned or occupied by any other railroad corporation excepting the right to intersect or cross the tracks and lands owned or held for right of way by such other company; such intersection and crossing to be limited to points where the same can be made without appropriating or affecting any lands owned or held for depots or gravel beds. Provided, that the mortgagee or mortgagees, receiver or receivers in possession of any railroad as aforesaid, before commencing proceedings to ascertain and appraise damages under the provisions of this act, shall present a petition to the court under whose authority they are acting, or to any court of competent authority, for permission to commence such proceedings, which petition shall set forth that such real estate, right of way, or other rights, as aforesaid, described in said petition, are necessary for the operation of said railroad, or for the protection of the

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\* So in original.

property in their possession, and a copy of which petition, with a notice of the time and place the same would be presented to said court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to said court, and no proceedings to ascertain and appraise damages, as aforesaid, shall be taken by said mortgagee or mortgagees, receiver or receivers, as aforesaid, unless they shall be duly authorized by order of said court. (*Thus amended. Laws of 1881, chap. 649.*)

See chap. 272, Laws of 1847, page 362 hereof.

**Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer on commission to concur; determination, map and testimony to be filed; appeals; court may affirm route or adopt alteration; the pay of commissioners.**

§ 22. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors and filed in the office of the clerk of the county in which the road is to be made, or in the office of register in counties where there is a register's office. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated, and which has not been purchased by, or given to the company, of the time and place such map and profile were filed, and that the route designated thereby passes over the land of such occupant. Any occupant or owner of land over which such route passes, feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, give ten days' notice in writing to such company and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the Supreme Court in the judicial district where said lands are situated by petition duly verified for the appointment of commissioners to examine the said route; such petition shall set forth the petitioner's objections to the route designated by the company, shall designate the route to which it is proposed to alter the same, and shall be accompanied by a survey, map and profile of the route as designated by the company, and of the proposed alteration thereof, copies of which petition, map, survey and profile shall be served upon the company and said owners or occupants, with the notice of the application. If the said justice shall consider sufficient cause therefor to exist, he may, after hearing such parties as shall appear, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the company, and the route to which it is proposed to alter the same, and, after hearing the parties, to affirm the route originally designated or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration, but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer, nor shall an alteration be made which will cause greater damage or injury to lands, or materially greater length of road, than the route designated by the company would cause, nor which shall substantially change the general line adopted by the company. The determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate, with the petition, map, survey and profile, and any testimony taken before them, be filed in the office of the register of the county, in counties where there is a register, otherwise in that of the county clerk. Within twenty days after the filing of such certificate any party may, by notice in writing to the others, appeal to the Supreme Court from the decision of the commissioners, which appeal shall be heard and decided at the next general term of the court held in any judicial district in which the lands of the petitioners, or any of them are situated, for which the same can be noticed according to the rules and practice of said court. On the hearing of such appeal the court may affirm the route proposed by the company or may adopt that proposed by the petitioner. Said

commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the route of the road as designated by the company is altered by the commissioners, and their decision is affirmed on appeal (if an appeal be taken), the company shall refund to the applicant the amount so paid. (*Thus amended, Laws of 1871, chap. 560.*)

See chap. 19, Laws of 1851, at page 349 hereof; § 13, chap. 282, Laws of 1854, at page 342 hereof; chap. 843, Laws of 1872, page 350 hereof; chap. 560, Laws of 1871, page 347 hereof.

**Directors may change route; survey; may acquire land; alteration in city or village; compensation; provide alteration when bonds have been issued.**

§ 23. The directors of every company formed under this act may, by a vote of two-thirds of their whole number, at any time, alter or change the route, or any part of the route of their road, or its termini, or locate the said route, or any part thereof, or its termini, in a county adjoining any county named in the articles of association, if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county a survey, map and certificate of such alteration or change, and shall have the same right and power to acquire title to any lands required for the purposes of the company in such altered or changed route as if the road had been located there in the first instance; and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company; nothing herein shall be construed to authorize the change of either terminus to any other county than one adjoining that in which it was previously located, nor the reduction of the amount of capital stock per mile below that now required by law. All the provisions of this act relating to the first location and to acquire title to land shall apply to every such new or altered portion of the route. Nor shall the provisions of this section authorize the alteration of the route or terminus of any railroad in any town, county or municipal corporation which has issued bonds, or any town which may be bonded, but whose bonds have not yet been issued, or subscribed for, and taken any stock or bonds in aid of the construction of such railroad without the consent in writing of, and subscribed by, a majority of the tax payers appearing upon the last assessment-roll of said town, county or municipal corporation. But it shall not be necessary to obtain the consent of such tax payers in order to authorize an extension to a new terminus where such terminus after the change will remain in the village or city as theretofore. But nothing herein shall be construed to authorize the abandonment of any portion of the track of any railroad as described in its articles of association. (*Thus amended, Laws of 1886, chap. 634.*)

See chap. 560, Laws of 1871, page 347 hereof.

**Crossings and intersections; how additional land for, taken.**

§ 24. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike or plankroad, such highway, turnpike or plankroad may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the land so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same, when so taken, shall become a part of such intersecting highway, turnpike or plankroad, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

**State land, how acquired by company.**

§ 25. The Commissioners of the Land Office shall have power to grant to any railroad company formed under this act, any land belonging to the people of this State, which may be required for the purposes of their road, on such terms as may be agreed on by

them; or such company may acquire title thereto by appraisal, as in the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company, for such compensation as may be agreed upon. The land included in the State reservation at Niagara and the the\* con-course lands on Coney Island are expressly exempted from the provisions of this section. (*Thus amended, chap. 601, Laws of 1886.*)

As to State salt lands, see chap. 346, Laws 1848, page 458.

As to Indian lands, see chap. 316, Laws 1836, page 344.

As to Chautauqua Assembly grounds, see chap. 403, Laws of 1886, page 344.

**Title, how acquired, when trustees, guardian or committee are not authorized to sell.**

§ 26. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition to authorize and empower such trustee, or the general guardian or committee of such infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just, and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

**Weight of iron rails on grades, etc.; how to apply act.**

§ 27. No company formed under this act shall lay down or use in the construction of their road any iron rail of less weight than fifty-six pounds to the lineal yard on grades of 110 feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over 110 feet to the mile, except for turnouts, sidings and switches, provided this section shall apply only to roads now being constructed or hereafter to be constructed, when the gauge of said road exceeds four feet or over. (*Thus amended, Laws of 1871, chap. 669.*)

As to Kanona and Prattsburgh R. R., see Laws of 1886, chap. 607.

**Additional powers conferred.**

§ 28. Every corporation formed under this act shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power.

See title 3, chap. 18, part 1 of the Revised Statutes, referred to in foregoing section, pages 336, 337.

**May enter upon lands for purpose of survey.**

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto.

**May hold voluntary grants of real estate.**

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grants shall be held and used for the purpose of such grant only.

**May purchase, hold and use real estate; reference to Indian lands.**

3. To purchase, hold and use all such real estate and other property as may be neces-

\* So in the original.

sary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting, the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

See chap. 316, Laws of 1836, entitled "An act to authorize the construction of railroads upon Indian lands," referred to in above section, page 344 hereof.

#### **Construction of road.**

4. To lay out its road not exceeding six rods in width, and to construct the same; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

#### **May construct road across any stream, canal and highway; bridges or obstruction prohibited; streets in cities not to be used without consent of corporation, nor along highways without consent.**

5. To construct their road across, as provided in section twenty-four of this act, and along or upon any stream of water, water-course, street, highway, plankroad, turnpike, or across any of the canals of this State, which the route of its road shall intersect or touch, but the company shall restore the stream or water-course, street, highway, plankroad and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this act shall be subject to the power vested in the Canal Commissioners by the seventeenth section of chapter 276 of the Session Laws of 1834. Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstruction across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstructions may be proposed to be placed; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city, without the assent of the corporation of such city; nor to authorize any such railroad company to construct its road upon and along any highway, without the order of the Supreme Court of the judicial district in which said highway is situated, made at a special term of said court, after at least ten days' notice in writing of the intention to make application for said order, shall have been given to the commissioners of highways of the town in which said highway is situated. (*Thus amended, Laws of 1887, chap. 724.*)

See § 17, chap. 276, Laws of 1834, referred to in foregoing section, page 339 hereof.

Damages for crossing turnpike or plankroad, § 4, chap. 19, Laws of 1851, page 350 hereof.

See chap. 300, Laws of 1835, and chap. 255, Laws of 1885, at page 343 hereof.

See chap. 140, Laws of 1882, page 405 hereof; § 17, chap. 282, Laws 1854, page 342 hereof.

See, also, chap. 478, Laws of 1855, page 343 hereof, and chap. 62, Laws of 1853, page 391 hereof.

As to certain streets in New York city, see chap. 179, Laws of 1887.

#### **Right to cross, intersect, etc., other railroads; proceedings in case two corporations cannot agree; companies shall receive from each other and forward freight.**

6. To cross, as provided in section twenty-four of this act, and to intersect, join and unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad company, with the necessary turn-outs, sidings and switches, and other conveniences in furtherance of the objects of its connection. And every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the line or lines, the grade or grades, points and manner of such crossing and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer, to be appointed by the courts, as is provided in this act in respect to acquiring title to real estate; and said commissioners shall have full power to determine whether the crossing or crossings of any railroad before constructed shall be beneath, at or above the existing grade of any such railroad, and upon the route designated on the map of the company seeking the crossing required to be filed by section twenty-two of this act, or otherwise. And all companies whose railroads are or shall hereafter be crossed, in-



intersected or joined as aforesaid shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads with the same dispatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property received at and forwarded from the same point for individual and other corporations. (*Thus amended, Laws of 1887, chap. 724.*)

Nothing in this act contained shall apply to any street surface railroad in the city of New York (Laws of 1880, chap. 583, § 2).  
See, also, chap. 222, Laws of 1847, page 338 hereof.

#### **Conveyance of passengers and property.**

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor.

#### **Buildings and stations.**

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freight and business.

#### **Time and manner of transportation, rate of fare, etc.**

9. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents per mile. The re-enactment of this provision shall not be construed as increasing the rate of passenger fare which any railroad of this State is now authorized to charge.

As to extortion, see chap. 185, Laws of 1857, at page 443 hereof.

As to roads not exceeding fifteen miles in length, see chap. 470, Laws of 1881, at page 394 hereof.

As to narrow guage roads, see § 8, chap. 560, Laws of 1871, page 348 hereof; also, chap. 386, Laws of 1883, page 349 hereof.

See, also, chaps. 234, 599, 607, Laws of 1886.

As to payment of five cents additional fare, see chap. 228, Laws of 1857.

As to rate of fare, mountain roads, see chap. 536, Laws of 1887, at page 339 hereof.

#### **May borrow money necessary for completion or operation of road; penalty for voting for issue of bonds or increase of capital not authorized.**

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency. Any director or officer of a railroad corporation who shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property, without the issue thereof having been sanctioned by a majority in amount of its stockholders, who shall vote in person or by proxy thereon, at a meeting called for that purpose, in the manner provided in section nine of this act, to consider an increase of capital stock, shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year or by both such fine and imprisonment. (*Sub. 7, 8, 9 and 10, thus amended by Laws of 1880, chap. 133; sub. 10, also amended by Laws of 1887, chap. 724.*)

Not necessary to file as chattel mortgage, see chap. 779, Laws of 1868, at page 366 hereof.

#### **Canal tolls; returns, how made; forfeiture, how prosecuted.**

§ 29. Repealed.

See chap. 497, Laws of 1851, entitled "An act to abolish tolls on railroads."

#### **Conductors and servants to wear badges.**

§ 30. Every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall



wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

#### Annual report.

§ 31. Every railroad corporation formed under this act shall make an annual report to the State Engineer and Surveyor of its operations for the year ending with the thirtieth day of September, and of its condition on that day; which report shall be verified by the oaths of the president or treasurer and the general manager or acting superintendent of its operations, and shall be filed in the office of the State Engineer and Surveyor by the twentieth day of December in each year, and shall state:

#### TABLE A.

##### STOCK AND DEBT.

1. Capital stock as authorized by charter.
2. Capital stock as since fixed.
3. Capital stock subscribed.
4. Capital stock paid in.
5. Funded debt.
6. Unfunded debt.
7. Total funded and unfunded debt.
8. Average rate per annum of interest on funded debt.  
The several amounts shall be stated in two columns, one of which shall be headed and contain "As by last report," and the other "By this report."
9. Number of shares of ordinary stock.
10. Number of shares of preferred stock.
11. Total shares of stock, of par value of \$        per share.
12. Number of stockholders.
13. A tabular statement of the funded debt as "by this report" shall be given, showing
  - (1) Each kind of bonds or obligations.
  - (2) If and how secured.
  - (3) Date of issue.
  - (4) When due.
  - (5) Rate of interest.
  - (6) Amount of authorized issue.
  - (7) Amount actually issued.
  - (8) The total amounts.
14. The amount of unfunded debt as "by this report," shall be stated under the following classifications:
  - (1) Notes and acceptances.
  - (2) Pay-rolls and operating expenses unpaid.
  - (3) Amounts due other railroad corporations.
  - (4) Interest due and unpaid.
  - (5) Dividends unpaid.
  - (6) Open accounts.
  - (7) Other items (if any)

#### TABLE B.

##### COST OF ROAD AND EQUIPMENT.

15. Grading and masonry.
16. Bridges.
17. Superstructure, including rails.
18. Passenger and freight stations, buildings and fixtures.
19. Engine and car-houses, machine shop, machinery and fixtures.
20. Land, land damages and fences.

21. Locomotive engines and fixtures.
22. Passenger and baggage cars.
23. Freight and other cars.
24. Engineering and agencies.
25. Any other items entering into the cost or value.
26. Total.

The several amounts shall be extended into three columns; the first to be headed and contain "Amount of last report;" the second, "Amount since charged;" and the third, "Amount by this report."

27. A statement shall be given showing briefly (by numbers, by quantities, or by descriptions) the additions or betterments made to the road and equipment, representing the several amounts that may appear in the column headed "Amount since charged."

### TABLE C.

#### CHARACTERISTICS OF ROAD

28. Main line of road (starting termini).
29. Main line laid.
30. Branches owned.
31. Lines leased or operated.
32. Total main line, branches owned, and lines leased or operated.
33. Second track on main line.
34. Second track on branches owned or lines leased or operated.
35. Total second track.
36. Third track on main line.
37. Fourth track on main line.
38. Third and fourth track on branches owned, or on lines leased or operated.
39. Sidings and turnouts on main line.
40. Sidings and turnouts on branches owned, and on lines leased or operated.
41. Total sidings.
42. Aggregate of all tracks on main line, branches owned, and lines leased or operated, including all sidings and turnouts.  
The amounts shall be extended into three columns; the first headed and to contain "Length in this State;" the second "Length out of this State;" and the third "Total length."
43. A tabular statement shall be given, showing the termini of each branch, and of each line leased or operated, its length, and the length of double track, including sidings and turnouts on each.
44. Gauge of track.
45. Miles of steel rails (reduced to single track) in main line.
46. Same in branches owned, and lines leased or operated.
47. Weight per yard of steel rails in main line.
48. Weight per yard of iron rails in main line.
49. Weight per yard of steel rails in branches.
50. Weight per yard of iron rails in branches.
51. Length in feet of iron bridges on all lines.
52. Length in feet of wooden bridges on all lines.
53. Length in feet of pile or trestle work in wood on all lines.
54. Miles of telegraph wire owned and operated.

### TABLE D.

#### EQUIPMENT.

55. Number of locomotive engines for passenger service.
56. Number of locomotive engines for freight service.
57. Number of locomotive engines for switching service.
58. Total number of locomotive engines owned.
59. Average weight (with tender and fuel and water) of each kind of locomotive engines.

60. Number of engine-houses.
61. Aggregate number of stalls in same.
62. Number of first-class passenger cars.
63. Number of second-class and emigrant passenger cars.
64. Number of baggage, mail and express cars.
65. Number of freight and other cars owned, namely:
  - (1) Box freight.
  - (2) Platform or flat.
  - (3) Cattle.
  - (4) Oil.
  - (5) Coal.
  - (6) Service.
  - (7) Other kinds.
66. Number of above freight cars with eight wheels.
67. Number of above freight cars with four wheels.
68. Number of locomotive engines controlled by the corporation for use, but leased instead of owned.
69. Number of freight cars controlled by the corporation for use, but leased instead of owned.

## TABLE E.

## MISCELLANEOUS.

70. Number of machine and car shops.
71. Number of elevators or grain-houses.
72. Aggregate capacity of same in bushels.
73. Number of freight or cattle yards of two acres or more in area.
74. Aggregate area of same in acres.
75. Miles of track laid in same.
76. Average number of persons directly employed by the company during the year.
77. Aggregate amount of salaries and wages paid to same for the year.

## TABLE F.

## DOINGS OF THE YEAR IN TRANSPORTATION AND TOTAL MILES RUN.

78. Number of miles run by passenger trains.
79. Number of miles run by freight trains.
80. Number of passengers (all classes) carried in cars.
81. Number of tons, of 2,000 pounds, of freight carried in cars.
82. Number of miles traveled by passengers, or number of passengers carried one mile ("total movement of passengers").
83. Number of miles one ton of freight was carried, or number of tons carried one mile ("total movement of freight").
84. Average rate of speed (miles per hour) adopted by ordinary passenger trains, including stops.
85. Rate of speed of same when in motion.
86. Average rate of speed adopted by express passenger trains, including stops.
87. Rate of speed of same when in motion.
88. Average rate of speed adopted by freight trains, including stops.
89. Rate of speed of same when in motion.

## TABLE G.

## DESCRIPTION OF FREIGHT MOVED.

90. Products of the forest (tons).
91. Products of animals.
92. Vegetable food.
93. Other agricultural products.
94. Manufactures.
95. Merchandise.
96. Other articles.
97. Total number of tons.

TABLE H.

AMOUNTS MOVED OF CERTAIN SPECIFIED ARTICLES INCLUDED IN FOREGOING  
DESCRIPTION.

- 98. Flour (tons).
- 99. Grain.
- 100. Live stock.
- 101. Fresh or pickled meats and provisions.
- 102. Petroleum and other oils.
- 103. Lumber.
- 104. Pig and bar iron and steel, and iron and steel rails.
- 105. Iron and other ores.
- 106. Coal.

TABLE I.

## DIRECTION AND DESTINATION OF FREIGHT MOVED.

- 107. Tons of through, going east and south.
- 108. Tons of through, going west and north.
- 109. Total tons through.
- 110. Tons of way, going east and south.
- 111. Tons of way, going west and north.
- 112. Total tons way.

TABLE J.

## DESTINATION OF PASSENGERS CARRIED.

- 113. Number of through passengers.
- 114. Number of way passengers.

TABLE K.

## AVERAGE RATE CHARGED PER TON PER MILE ON FREIGHT.

- 115. On first class.
- 116. On second class.
- 117. On third class.
- 118. On fourth class.
- 119. On all other classes.
- 120. Average on all classes.

The amounts shall be stated in two columns; one headed and to contain "Rate on through;" and the other "Rate on way;" and the "Average on all classes" shall be stated with reference to the respective amounts of each class actually moved.

- 121. General average of through and way.

TABLE L.

## AVERAGE RATES CHARGED FOR PASSENGERS PER MILE.

- 122. For first class.
- 123. For second class.
- 124. For emigrants.
- 125. Average for all classes.

The amounts shall be stated in two columns; one headed and to contain "Rate for through;" and the other "Rate for way;" and the "Average for all classes" shall be stated with reference to the number of each actually carried.

- 126. General average for through and way.

TABLE M.

## EXPENSES OF MAINTAINING ROAD AND REAL ESTATE.

- 127. Repairs of road-bed and railway other than cost of rails.
- 128. Repairs of bridges.
- 129. Repairs of telegraph lines.
- 130. Cost of rails used in repairs.
- 131. Tons of steel rails used in repairs.
- 132. Length of same (miles and fractions).
- 133. Tons of iron rails used in repairs.
- 134. Length of same (miles and fractions).
- 135. Repairs of buildings.
- 136. Repairs of fences and gates.
- 137. Taxes on real estate.
- 138. Total expenses of maintaining road and real estate.

TABLE N.

## EXPENSES OF REPAIRS ON MACHINERY AND CARS.

- 139. Repairs of engines and tenders.
- 140. Repairs of passenger and baggage cars.
- 141. Repairs of freight cars.
- 142. Repairs of tools and machinery in shops.
- 143. Incidental expenses, including oil, fuel, clerks, watchmen, and other expenses about shops.
- 144. Total expenses of repairs of machinery and cars.

TABLE O.

## EXPENSES OF OPERATING THE ROAD.

- 145. Office expenses, stationery, and other expenses about office.
- 146. Agents and clerks.
- 147. Labor in loading and unloading freight.
- 148. Porters, watchmen, flagmen and switchmen.
- 149. Fuel and water station attendance.
- 150. Conductors, baggagemen and brakemen.
- 151. Enginemen and firemen.
- 152. Fuel, cost and labor in preparing for use.
- 153. Oil and other lubricants and waste.
- 154. Loss and damage of goods and baggage.\*
- 155. Damages for injuries of persons.
- 156. Damages to property, including damages by fire and cattle killed on road.
- 157. General superintendence, or salaries of general officers.
- 158. Hire of cars.
- 159. All other items.
- 160. Total expenses of operating the road.

The amount stated under the several subdivisions of "expenses of maintaining road and real estate," "expenses of repairs of machinery and cars," and "expenses of operating the road," are to be those chargeable against the year's business, and are to be stated without reference (other than the weight and length of rails) to the sums actually paid therefor during the year. The amounts shall be tabulated and divided between "passenger transportation" and "freight transportation," and so far as items do not pertain specifically to either one particular kind of transportation, the division shall be made in the ratio of the "total movements" of passengers and freight.

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\* So in original.

TABLE P.

## AMOUNTS PAID FOR CERTAIN SPECIFIC PURPOSES INCLUDED IN FOREGOING.

- 161. Stationery and printing.
- 162. Advertising.
- 163. Legal expenses and counsel fees.
- 164. Insurance.
- 165. Rents.
- 166. Tolls.
- 167. Contributions and subscriptions.

TABLE Q.

## TRANSPORTATION EXPENSES FOR THE YEAR.

- 168. Expenses of maintaining road and real estate (Table M).
- 169. Expenses of repairs of machinery and cars (Table N).
- 170. Expenses of operating the road (Table O).
- 171. Total transportation expenses.  
The division between "passenger transportation" and "freight transportation," hereinbefore provided for, shall be brought forward with the subdivisions of "transportation expenses," and the resulting division of "transportation expenses" shall be shown.

TABLE R.

## RESULT OF THE BUSINESS OF THE YEAR.

The earnings are to be stated without reference to the sums actually received during the year.

- 172. Earnings.
  - (1) From passengers.
  - (2) From freight.
  - (3) From mails.
  - (4) From rents.
  - (5) From other sources (in detail).
  - (6) Total earnings.
- 173. Charges against earnings.
  - (1) Transportation expenses (171).
  - (2) Interest.
  - (3) Rentals of leased lines.
  - (4) Dividends—date, and rate per centum.
  - (5) Other items (in details).
  - (6) Total charges against earnings.
- 174. Resulting surplus (or deficiency) for the year.

TABLE S.

## "INCOME" OR "PROFIT AND LOSS" ACCOUNT.

- 175. Balance, surplus (or deficiency) from previous year.
- 176. Surplus (or deficiency) for this year, as shown by table R.
- 177. Any other items of gain or loss (to be added or deducted).
- 178. Balance, surplus (or deficiency) now.  
This balance of "income," or "profit and loss," must be that which appears on the proper side of the "balance sheet" hereinafter provided for.

TABLE T.

## BALANCE SHEET, AT THE END OF YEAR.

- 179. The "balance sheet" must be tabulated, and contain on the one side a statement of the assets of the company at the close of the year, as follows:

- (1) Cost of road and equipment, as shown "by this report" in Table B.
- (2) Cost of other lines owned, which may not have been included in preceding; stating each line separately.
- (3) Permanent investment (in detail).
- (4) Cash on hand.
- (5) Cash assets (classified).
- (6) Due from other railroad corporations.
- (7) Fuel and supplies on hand.
- (8) Sinking fund (if any).
- (9) Other assets (classified and in detail).

And on the other side a statement of the liabilities of the company at the same time, as follows:

- (1) Capital stock (as "by this report" in Table A).
- (2) Funded debt (as "by this report" in Table A).
- (3) Unfunded debt (as "by this report" in Table A).
- (4) Other liabilities classified.

The balance of "income" or "profit and loss" must appear on the side on which it may fall according to whether it be "surplus" or deficiency, and the two sides of the "balance sheet" must then be equal in footing.

The "balance sheet" in each report, after the first one shall have been made under the provisions of this act, shall be tabulated with double columns on each side; in one of which columns, properly headed, shall appear the amounts at the end of the year for which such report is made, and in the other the amounts of the corresponding items as they appear in the report for the previous year.

180. The number of persons injured in life or limb, and the cause of the injury, and whether passengers or persons employed, and whether any such accidents have arisen from carelessness or negligence of any persons in the employment of the corporation, and whether such persons are retained in the service of the corporation.

181. The names and residences of the directors of the corporation.

182. The names and official addresses of the executive and general officers of the corporation.

183. It shall be the duty of each corporation to transmit to the State Engineer and Surveyor the following maps, profiles and drawings exhibiting the characteristics of their roads; the map to show the length and direction of each straight line, and the length and radius of each curve; also the point of crossing of each town and county line, and the length of line in each town and county, accurately determined by measurements to be taken after the completion of the road. The profiles to be on the map, and shall show the grade line and surface of ground in the usual method, also the elevation of grades above tides at each change in the inclination thereof. The maps and profile to be made on a scale of 500 feet to one-tenth of a foot, vertical scale of profiles to be 100 feet to one-tenth of a foot. For all roads or parts of roads now done, or in operation, and for which such maps and profiles have not already been returned, they shall be returned on or before the first day of January next; and for all roads now in progress, or which may hereafter be constructed, the said maps and profiles shall be returned within three months after the same or any portion thereof shall be in use.

184. It shall be the duty of the State Engineer and Surveyor to arrange the information contained in such report in tabular form, and prepare the same, together with the said reports, in a single document, for printing, for the use of the Legislature, and report the same to the Legislature as early as may be practicable in each year.

185. The provisions of this section shall apply to all existing railroad corporations; and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporations, or either of them. (*Thus amended, Laws of 1880, chap. 575.*)

As to power of Board of Railroad Commissioners to prescribe form of report, see chap. 363, Laws of 1882, § 10, page 416 hereof.  
See, also, chap. 844, Laws of 1889, page 359 hereof; as to Street Railroads, see chap. 906, Laws of 1867, page 394 hereof.



**Penalty for not making report.**

§ 32. Any railroad corporation which shall neglect to make the report, as is provide\* in the preceding section, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day after the first day of December, on which they shall neglect to file said report, as provided in said section, to be sued for in the name of the people of the State of New York, for their use. (*Thus amended, Laws 1887, Chap. 906.*)

**Legislature may alter or reduce rate of freight, fare, etc.**

§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such roads; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the "Board of Railroad Commissioners," they shall ascertain the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended. (*Thus amended, Laws of 1883, chap. 381.*)

**Mails.**

§ 34. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the postoffice car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service, to be fixed as aforesaid.

See § 17, chap. 215, Laws of 1846, at page 361 hereof.

**Passengers refusing to pay fare.**

§ 35. If any passenger shall refuse to pay his fare it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force at any usual stopping place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

**Notice of time, of starting, etc.; preferences forbidden.**

§ 36. Every such corporation! shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freights for that train, and shall take, transport and discharge such passengers and property at and from and to such places on the due payment of the fare or freight legally authorized therefor. No preference for the transaction of business shall be granted by said railroad corporation to any one of two or more companies or associations competing in the business of transporting property for themselves or for others, upon the railroad owned or operated by such corporation, either upon the cars or in the depots or buildings, or upon the grounds of such corporation; and whenever the railroad of such corporation at or near the same place connects with or is intersected by any other railroad, such corporation shall fairly and impartially grant and afford to each of such competing

\* So in original.

companies or associations equal terms of accommodation, privileges and facilities in the transportations of property and freight to and upon such connecting or intersecting railroad, and shall also grant and afford to each of such competing companies or associations, and to the officers, agents or employees thereof equal facilities in the interchange and use of express, freight and other cars, so far as may be necessary to accommodate the business of each of such competing companies or associations, and every railroad corporation shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises. The provisions of this section shall apply to all existing railroad corporations. (*Thus amended, Laws of 1867, chap. 49.*)

See § 9, chap. 270, Laws of 1847, at page 361, as to liability of connecting railroads for freight and as common carriers.

#### **Baggage arrangement; checks to be given; penalty for refusal.**

§ 37. A check shall be affixed to every parcel of baggage, when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and, further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him, to prove the contents and value of said baggage.

As to checks for baggage, weight of baggage, etc., see chap. 270, Laws of 1847, § 8, page 361 hereof, chap. 272, Laws of 1847, § 6, at page 363 hereof, and chap. 300, Laws of 1837, at pages 365, 366; also chap. 673, Laws of 1868, page 355 hereof.

#### **Passenger trains, how formed; penalty.**

§ 38. In forming a passenger train, baggage, freight, merchandise, or lumber cars shall not be placed in rear of the passenger car; and if they, or any of them, shall be so placed, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor, and be punished accordingly.

§ 39. Repealed. (*Sec. 18, chap. 282, Laws of 1864.*)

#### **Sign-boards at road crossings; size of inscription; proviso.**

§ 40. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street where the same is crossed by the railroad, on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad crossing, look out for the cars." But this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such str

As to ringing bell and blowing whistle at street or highway crossing, see § 7, chap. 282, Laws of 1864, at page 340 hereof.

#### **Punishment of railroad employees for intoxication; punishment in case of death or injury of persons by reason of neglect occasioned thereby.**

§ 41. If any person employed or who shall be employed upon the railroad of any such corporation as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridge-tender, flagman, signalman, or having charge of the regulating or running of trains upon said railroad in any manner whatsoever, be intoxicated while engaged in the discharge of such duties, he shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punishable for each offense by a fine not exceeding one hundred dollars or by imprisonment in a county jail for a term not exceeding six months

in the discretion of the court having cognizance of the offense. And if any person so employed as aforesaid by any such corporation shall, by reason of such intoxication, do any act or neglect any duty, which act or neglect shall cause the death or injury to any person or persons, he shall, upon conviction thereof, be punishable by imprisonment in the county jail for a term of not less than six months, or in the State prison for a term not exceeding five years, in the discretion of the court having cognizance of the offense. (*Thus amended, Laws 1871, chap. 560.*)

As to age of employees, see chap. 246, Laws of 1865, page 444.

As to uniform of employees, see § 1, chap. 483, Laws of 1867, at page 446 hereof.

As to qualifications of engineers, see Laws of 1870, chap. 636, at page 596 hereof.

See Penal Code provisions as to employee, §§ 362, 199, 418, 419, 420, 421, 422, at page 483 hereof.

### **Persons injuring railroad property; how punished.**

§ 42. If any person or persons shall willfully do or cause to be done any act or acts whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

As to trespass upon or injury to railroad property, see Penal Code, § 487, subd. 4, 488, 489, 505, 645, 635, 638, at pages 459, 460 and 461 hereof; also chap. 261, Laws of 1877, at page 447 hereof; also chap. 160, Laws of 1833, page 443.

### **Penalties; how sued for.**

§ 43. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding one hundred dollars then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

As to suits for penalties, see Code of Civil Procedure, §§ 675 to 682; pp. 457, 458 hereof.

### **Fencing; penalty for driving animals on railroads; unlawful to walk upon track.**

§ 44. Every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or willfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall for every such offense, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved. It shall not be lawful for any person, other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

See § 8, chap. 282, Laws of 1854, at page 441. As to owner fencing, see § 9, same page.

### **Maps to be filed with State Engineer and Surveyor and in county clerk's office; scale of maps.**

§ 45. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made:

A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the State Engineer and Surveyor; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording

deeds in the county in which such parts of said road shall be. Every such map shall be drawn on a scale, and on paper, to be designated by the State Engineer and Surveyor, and certified and signed by the president or engineer of such corporation.

**Duty of passengers.**

§ 46. In case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury; provided such company at the time furnished room inside its passenger cars sufficient for the proper accommodation of the passengers.

**Road when to be commenced and finished.**

§ 47. If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease.

This extension of time shall apply to all corporations whose articles of association have been filed within five years before the passage of this act. (*Thus amended, Laws of 1864, chap. 582.*)

As to extension of time, see Laws of 1867, chap. 775, at page 344 hereof; also chap. 598, Laws 1875, at page 345 hereof; also chap. 405, Laws of 1882, at page 345 hereof

**Legislative power to dissolve.**

§ 48. The Legislature may at any time annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

See Const. State of N. Y., art. 8, § 1, at page 458 hereof.

**What sections of this law applicable to existing corporations.**

§ 49. All existing railroad corporations within this State shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter, contained in sections 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 (except subdivision 9), 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, of this act.

**General repeal.**

§ 50. The act entitled "An act to authorize the formation of railroad corporations," passed March 26, 1848, and the acts amending the same, are hereby repealed; but all railroad companies formed under said act are hereby continued in existence in the same manner as if said acts were not repealed; and such companies shall be subject to all the provisions, and shall have the same powers, rights and privileges, and be subject to the same duties as if they had been incorporated under this act; and the time limited by said act for the expenditure of ten per cent of their capital stock is hereby extended two years from the passage of this act; and the time limited in said section of said law for their completion is hereby extended to five years from the passage of this act; and also the time for completing any railroad organized previous to March 27, 1848, whose road was under contract prior to February 1, 1850, to be completed within the time prescribed by its charter, is hereby extended for one year.

**New York and Erie railroad.**

§ 51. Nothing in this act contained shall authorize or permit the New York and Erie Railroad Company to abandon the use of their road in the county of Rockland, east of Suffern's depot.

## REVISED STATUTES.

## TITLE 3, CHAPTER 18, PART 1, REFERRED TO IN SECTION 1 OF THE GENERAL RAILROAD ACT.

**General powers.**

SECTION 1. Every corporation, as such, has power:

1. To have succession by its corporate name for the period limited in its charter, and when no period is limited perpetually;
2. To sue and be sued, complain and defend, in any court of law or equity;
3. To make and use a common seal, and alter the same at pleasure;
4. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter.

[Any corporation which shall have sold and conveyed any part of its real estate may, notwithstanding any restriction in its charter, purchase, take and hold, from time to time, any lands adjacent to those already held by it; provided the Supreme Court shall authorize such purchase, taking and holding upon the application of such corporation, and on being satisfied that the value of all lands proposed to be so purchased shall not exceed that of lands sold and conveyed by the said corporation within the three years next preceding such application.] (§ 1, chap. 290, *Laws of 1882*.)

5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

6. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

**In what corporations to vest.**

§ 2. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter or in the act under which it shall be incorporated.

**What other powers to be possessed.**

§ 3. In addition to the powers enumerated in the first section of this title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

**Exercise of banking powers prohibited.**

§ 4. No corporation created, or to be created, and not expressly incorporated for banking purposes, shall, by any implication or construction, be deemed to possess the power of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold and silver bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, upon loan, or for circulation as money.

**Liability of stockholders.**

§ 5. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay, on each share held by him, the sum necessary to complete the amount of such share, as fixed by the charter of the company, or of such proportion of that sum as shall be required to satisfy the debts of the company.

**Quorum.**

§ 6. When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons, a majority of such body, or per-

sons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

**Forfeiture for non-user ; not applicable to railroads incorporated under the general act.**

§ 7. If any corporation hereafter created by the Legislature shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

The seventh section not to apply in certain cases.

[The seventh section of title 3, chapter 18, of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad company which has, or shall have in its own provisions the terms and times in which it shall be forfeited for non-user.] (§ 1, chap. 155, *Laws of 1846*.)

See General Act, § 1.

**Reservation of power to repeal.**

§ 8. The charter of every corporation that shall hereafter be granted by the Legislature shall be subject to alteration, suspension and repeal, in the discretion of the Legislature.

**Trustees in case of dissolution.**

§ 9. Upon the dissolution of any corporation created or to be created, and unless other persons shall be appointed by the Legislature or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the moneys and other property that shall remain, after the payment of debts and necessary expenses.

**Powers of trustees.**

§ 10. The persons so constituted trustees shall have authority to sue for and recover the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall come into their hands.

## LAWS RELATING GENERALLY TO RAILROADS.

[See *General Index Laws*, page 1047.]

### CHAP. 222, LAWS of 1847.

#### AN ACT in relation to railroad corporations.

**Terms of accommodation to be made to connect railroads of different companies.**

SECTION 1. Every railroad company whose railroad shall, at or near the same place, connect with or be intersected by two or more other railroads, which are competing lines for the business to or from such railroad, shall fairly and impartially grant and afford to the proprietors of each of such connecting or intersecting railroads equal terms of accommodations, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon their railroads, and over and upon such connecting or intersecting railroads, and shall also grant and afford the proprietors of each of said connecting or intersecting railroads equal facilities in the interchange and use of passenger, baggage, freight and other cars so far as may be required to accommodate the business of each railroad, and also in furnishing passage tickets to passengers who may have come over or may wish to go over either of such connecting or intersecting railroads; and if the proprietors of either of such connecting or intersecting railroads shall deem themselves aggrieved by the arrangements or conduct of the company with whose railroad their railroad connects in the premises, such proprietors may make application

by petition to the Governor of this State, on giving fourteen days' notice to the companies or proprietors of the railroads with which their railroad connects, for the appointment of three commissioners to inquire into the alleged complaints; and it shall be the duty of said Governor to appoint three disinterested persons as commissioners, who shall summarily examine into the alleged grievances, and shall prescribe such regulations in the premises as will in their judgment secure the enjoyment of equal privileges, accommodations and facilities to the proprietors of the said connecting or intersecting railroads, in the transportation, use and interchange of cars, passengers, baggage and freight, as may be required to accommodate the business of each of said railroads, and in the management and conduct of the several railroads connecting with each other, and the said commissioners shall also determine and fix the terms and conditions upon which such facilities and accommodations shall be afforded to each of said connecting railroads. The award of the commissioners, when approved by the Supreme Court, shall be binding on the parties for two years, and the court shall have power to compel the performance thereof, by attachment, mandamus or otherwise. And the expenses of the foregoing proceedings shall be paid by such of the parties as shall be determined on by said court.

#### CHAP. 697, LAWS of 1866.

AN ACT supplementary to the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

#### Companies for operating railway by stationary power.

SECTION 1. It shall be lawful for any number of persons, not less than ten, to form themselves into a company for constructing, maintaining and operating a railway for public use, in the conveyance of persons and property, by means of a propelling rope or cable attached to stationary power; and upon compliance with the provisions of the first three sections of the act to which this is supplementary, they shall become a body corporate and politic, according to the provisions of said act; *Provided*, That the directors of any such company may be limited to any number not less than five, to be specified in the articles of association.

#### By what name designated.

§ 2. Any such company may style itself by the name of the inventor or patentee of the particular method of propulsion used, together with such local designation as the associates may deem desirable, and shall, by such name set forth in their articles of association, have and enjoy all the powers and privileges and be subject to the liabilities mentioned in the aforesaid act, passed April 2, 1850, so far as the same are comprised in the first twenty-six sections and the twenty-eighth section thereof.

#### Fare.

§ 3. (*See chap. 422, Laws 1884, below.*)

#### When company may operate roads in other States.

§ 4. It shall be lawful for any company formed under this act to construct and operate and maintain a road or roads in any other State or country in which the same does not conflict with the laws of such State or country; provided the assent of inventors or patentees are first obtained in the same manner and extent as would be necessary within the United States.

#### Extension of corporate existence, how effected; firms, certified copy of certificate evidence.

§ 5. The continuance of any railroad corporation now existing, or hereafter to be formed under the laws of this State, may be extended beyond the time named for that purpose in its act or acts of incorporation, or in the articles of association of such corporation, by the filing in the office of the Secretary of State a certificate of consent to such extension signed by the holders of two-thirds in amount of the stock held by the stockholders of such corporation; and in every case where such consent has been or shall be so filed, the term of existence of such corporation is hereby extended and declared to be extended for the period designated in such certificate, and each such corporation shall, during the period named in such certificate, possess and enjoy all the rights, privileges and franchises enjoyed or exercised by such corporation at the time such certificate was or shall be so filed. Each such certificate shall be proved or



acknowledged by the individuals signing the same before some officer authorized by law to take acknowledgments of deeds; and whenever such stock shall be owned or held by firms or copartnerships, the execution of such certificate shall be acknowledged by one or more of such copartners; and it shall be the duty of the Secretary of State to record such certificate in the book kept in his office for the record of articles of association of railroad companies. A copy of such certificate and of the acknowledgment thereof, certified by the Secretary of State, shall be presumptive evidence of the truth of the facts therein stated. (*Thus amended, Laws 1874, chap. 240.*)

**CHAP. 422, LAWS OF 1884.**

**AN ACT** to further amend chapter 697 of the Laws of 1866, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same.'"

**SECTION 1.** Section three of chapter three hundred and ninety-seven of the Laws of eighteen hundred and sixty-six, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,'" passed April second, eighteen hundred and fifty, is hereby amended so as to read as follows:

**Fare, rate of.**

§ 3. Companies formed under the provisions of this supplementary act may fix and collect rates of fare on their respective roads, not exceeding five cents for each mile or any fraction of a mile, for each passenger, and with a right to a minimum fare of ten cents; except when such railroad does not exceed two miles in length, and rises or overcomes elevations not less than five hundred feet to the mile, in which case it shall be lawful for such companies to fix and collect rates of fare on their respective roads not more than five cents for each one hundred feet of elevation so overcome for each passenger.

**To what roads applicable.**

§ 2. The provisions of this act shall apply to railways not exceeding four miles in length and overcoming elevations not less than five hundred feet to the mile, where the motive power is locomotives furnished with cogs working into cogs on the railway.

**CHAP. 536, LAWS OF 1887.**

**AN ACT** in relation to railroad corporations.

**Mountain railroads, rate of fare on.**

**SECTION 1.** Any railroad corporation now or hereafter organized under the laws of this State and which shall hereafter construct its road, may, where its railroad overcomes an elevation of more than one thousand feet within a distance of two miles, charge and receive for each passenger transported one way not more than seven cents for each one hundred feet of elevation; where its railroad overcomes an elevation exceeding three hundred feet to a mile, and is operated by other power than locomotive engines, it may charge and receive for each passenger transported one way at the rate of five cents for each one hundred feet of elevation, where its railroad overcomes an elevation of over two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, it may charge and receive for each passenger transported one way at the rate of ten cents per mile.

**Motive power.**

§ 2. Any such railroad company whose railroad overcomes either of the elevations described in the first section may use any motive power or powers.

**Limitation of act.**

§ 3. This act shall not be of force within the limits of any incorporated village or city in this State.

**CHAP. 276, LAWS OF 1834.**

**AN ACT** to incorporate the Medina and Darien Railroad Company.

**Power of Canal Commissioners.**

\* \* \* \* \*  
§ 17. The Canal Commissioners are hereby invested with a general and supervisory power over so much of any railroad as passes over any canal or feeder belonging to

this State, or approached within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this State, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this State, unless said company shall lay before the Commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said Canal Commissioners, with such conditions, instructions and limitations as, in the judgment of said Canal Commissioners, the free and perfect use of any such canal or feeder may require.

\* \* \* \* \*

#### CHAP. 282, LAWS OF 1854.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Sections 1 to 3, inclusive, amend General Railroad Act.)

#### Acquiring real estate, not to apply to certain real estate in Buffalo.

§ 4. In case any railroad company, the line or route of whose road has been surveyed and designated, and the certificate thereof duly filed as required by law, is unable to agree for the purchase of any real estate required for its roadway or other purposes, the said corporation shall have the right to acquire title to the same by the special proceedings prescribed in the act hereby amended; and all real estate acquired by any railroad corporation under and pursuant to the provisions of this act, for the objects and purposes herein expressed, shall be deemed to be acquired for public use. But this section shall not be so construed as to apply to any real estate in the city of Buffalo, situated between Main and Michigan streets, except that lying between Exchange street and Buffalo river. (*Thus amended, Laws of 1882, chap. 82.*)

#### Courts empowered to carry proceedings into effect.

§ 5. In all cases of appraisal under this act, and the act hereby amended, where the mode or manner of conducting all or any of the proceedings to the appraisal, and the proceedings consequent thereon, are not expressly provided for by the statute, the courts before whom such proceedings may be pending shall have the power to make all the necessary orders, and give the proper directions to carry into effect the object and intent of this and the aforesaid act; and the practice in such cases shall conform, as near as may be, to the ordinary practice in such courts.

#### Appraisal not affected by transfer of property.

§ 6. When any proceedings of appraisal shall have been commenced, no change of ownership, by voluntary conveyance or transfer of the real estate, or any interest therein, or of the subject-matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

#### Binging of bells at cross roads; penalty.

§ 7. A bell shall be placed on each locomotive engine run on any railroad, and rung at the distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street on the same level with the railroad, and be kept ringing until it shall have crossed such road or street; or a steam whistle shall be attached to each locomotive engine, and be sounded at least eighty rods from the place where the railroad shall cross any such traveled public road or street upon the same level with the railroad, except in cities, and be sounded at intervals until it shall have crossed such road or street, and every neglect to comply with the foregoing provision shall subject the corporation owning the railroad to a fine not exceeding \$20, in the discretion of the court having cognizance of the offense; and every engineer having charge of the engine, for every neglect to comply with the requirements aforesaid, shall be fined not exceeding \$50, or imprisoned in the county jail not exceeding sixty days, in the discretion

of the court before which any indictment may be tried; and the said corporation shall, moreover, be liable for all damages which shall be sustained by any person by reason of such neglect. All the penalties hereinbefore mentioned may be sued for in the name of the people of the State of New York, by the district attorney of the county wherein the same shall accrue, within ten days thereafter; and in case such district attorney shall omit or neglect to sue for such fine or fines within the time aforesaid, then it may and shall be lawful for any person aggrieved to sue therefor in the name of the overseers of the poor of the town wherein any such fine or fines shall have accrued, which, when recovered, shall be paid to the said overseers of the poor, for the benefit of the poor of said town. And in case such person shall fail to make out and maintain any such action, it shall be the duty of the court before whom any such action shall be had to enter a judgment against the complainant for the costs of said action.

#### **Fencing road.**

§ 8. Every railroad corporation, whose line of road is open for use, shall within three months after the passage of this act, and every railroad company formed or to be formed, but whose lines are not now open for use, shall, before the lines of such railroad are opened, erect and thereafter maintain fences on the sides of their roads, of the height and strength of a division fence, as required by law, with openings or gates, or bars therein at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such railroad corporation and its agents shall be liable for damages which shall be done by the agents or engines of any such corporation to any cattle, horses, sheep or hogs thereon, and when such fences and guards shall have been duly made and shall be kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no railroad corporation shall be required to fence the sides of its roads, except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad from the lands adjoining the same.

#### **Owner of land, when to build.**

§ 9. But it shall be the duty of every owner of land adjoining any railroad, who has received, or whose grantor has received, a specific sum as compensation for fencing along the line of land taken for the purpose of said railroad, and has agreed to build and maintain a lawful fence on the line of said road, to build and maintain such fence; and if said owner, his heir or assign, shall not build said fence within thirty days after he has been notified so to do by the said railroad corporation, or shall neglect to maintain said fences, if built, said corporations shall build and thereafter maintain such fence, and may maintain a civil action against the person so neglecting to build or maintain said fence, to recover the expense thereof.

#### **Unclaimed freight.**

§ 10. Every railroad company which shall have had unclaimed freight, not perishable, in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight, and the expenses of advertising and sale thereof; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in the State paper, and also in a newspaper published at or nearest the place at which such freight was directed to be left, and also at the place where such sale is to take place; and said notice shall contain a description of such freight, the place at which and the time when the same was left, as near as may be, together with the name of the owner or person to whom consigned, if known; and the expenses incurred for advertising shall be a lien upon such freight, in a ratable proportion, according to the value of each article or package or parcel, if more than one.

**Perishable freight.**

§ 11. In case such unclaimed freight shall, in its nature, be perishable, then the same may be sold as soon as it can be, on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

**Proceeds of sale.**

§ 12. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership.

**Lines common to two roads ; how constructed.**

§ 13. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, or whenever by the connection of two or more railroads, the same points of termination are reached by railroad communication, any two such railroads may, by agreement, provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Any road so connecting may alter and amend its articles of association, so as to terminate at the point of intersection, and may reduce its capital to a sum not less than \$10,000 for each mile of the road constructed, or proposed to be constructed in such amended articles of association. This section shall not be so construed as to apply to any railroad company or companies, so far as its or their line of road or roads are within the bounds of any incorporated city of this State.

**Persons on whom process may be served.**

§ 14. Every railroad corporation in this State shall, within thirty days after this act shall take effect, designate some person, residing in each of the counties through or into which such railroad may run, on whom process, to be issued by a justice of the peace, may be served, and shall file such designation in the office of the clerk of the county where the person so designated shall reside, and a copy of such designation, duly certified by such clerk, shall be evidence of such appointment, and the service of any process upon the person so designated or named, to be issued by any justice of the peace in any civil action or matter of which such justice may have jurisdiction, shall be as valid and effectual as if served upon the president or any director of any such corporation, as now provided by law.

**Service on agents and servants.**

§ 15. In all cases where such designation shall not be made as aforesaid, and where no officer of such corporation shall reside in the county, on whom process can be served according to the existing provisions of law, the process mentioned in the next preceding section may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper of such corporation, residing in such county, which service shall be as effectual in all respects as if made on the president or any director of such corporation.

(§ 16. amends the General Railroad Act of 1850.)

**Where track crosses canals.**

§ 17. The directors of any railroad company whose track crosses any of the canals of this State, and the present grade thereof shall be raised in consequence of directions given by the Canal Commissioners, may, with the assent of the said Canal Commissioners, lay out a new line of road for the purpose of crossing such canal on a more favorable grade, and may extend such new line and connect the same with any other line of road owned by the same company, and a survey, map and certificate of such new or altered line shall be made and filed in the clerk's office of the proper county; and

such company shall have the same right and power to acquire title to any lands required for the purposes of such company, under the provisions of this section, as it would have in the location of a line of road in the first instance; and all the provisions of the act hereby amended, relative to acquiring title to land for railroad purposes, shall apply to such new or altered line, and all lands acquired by any railroad company by appraisal, for passenger and freight depots, shall be held by such company in fee; but no new line or route of road can be laid out and established, as contemplated in this section, in any city or village, unless the same be sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village, nor shall any railroad company be compelled to abandon any existing line of road in consequence of establishing such new line of road.

**Repeal.**

§ 18. Section thirty-nine of the act hereby amended is repealed, but this repeal shall not affect any action or proceeding heretofore commenced under said section.

**CHAP. 478, LAWS OF 1855.**

**AN ACT** authorizing a change of the grade of railroads in certain cases.

**Grade where crossing a canal.**

SECTION 1. Whenever the grade of any railroad shall be changed under the direction of the Canal Commissioners, at any point where such road crosses, or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road, on each, or either side of the place where such change shall have been so made by order of the Canal Commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorized, at any time, to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents, and to facilitate the use of such road; any and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same;" and in the several acts amendatory thereof. [See chap. 62, Laws of 1853, page 391.]

**CHAP. 300, LAWS OF 1835.**

**AN ACT** to enlarge the powers of commissioners of highways.

**Lawful for commissioners of highways, having supervision thereof, to give written consent for construction across road or highway.**

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, on a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across, or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

**CHAP. 255, LAWS OF 1855.**

**AN ACT** to enlarge the powers and duties of commissioners of highways.

**Commissioners empowered to bring action against any railroad corporation to sustain rights of the public in and to any highway; to enforce any duty enjoined upon a railroad corporation; may maintain action for damages.**

SECTION 1. The commissioner or commissioners of highways in each of the towns of this State are hereby empowered to bring any action against any railroad corporation

that may be necessary or proper to sustain the rights of the public in and to any highway in such town, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in the town of which they are commissioners, and to maintain an action for damages or expenses which any town may sustain or may have sustained, or may be put to or may have been put to, in consequence of any act or omission of any such corporation in violation of any law in relation to such highway.

#### **Construction of act.**

§ 2. Nothing in this act shall be construed as in any manner impairing the right of any person or officer to bring any action now authorized by law.

### **CHAP. 316, LAWS OF 1836.**

**AN ACT** authorizing the construction of railroads upon Indian lands.

#### **Contracts; how made.**

SECTION 1. It shall be lawful for any railroad company that has been, or may hereafter be, chartered by the Legislature of this State, to contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct such railroad, for the right to make such road upon such lands; but no such contract shall vest in such railroad company the fee to such lands, nor the right to occupy the same for any purposes other than what may be necessary for the construction, occupancy and maintenance of such railroad.

#### **Contracts to be ratified by court.**

§ 2. No contract made with the chiefs of any nation of Indians, for the purposes mentioned in the first section of this act, shall be valid or effectual until the same shall be ratified by the Court of Common Pleas of the county where such lands may be situated

### **CHAP. 403, LAWS OF 1866.**

**AN ACT** to protect the Chautauqua Assembly Grounds from railroads.

SECTION 1. It shall not be lawful for any railroad or railway company or corporation now existing, or hereafter organized under the laws of this State, or otherwise, to build, construct or operate any railway or railroad in, upon, over or through the grounds, lands or premises now owned by the Chautauqua Assembly corporation, in the town and county of Chautauqua, without first procuring the consent in writing of a majority of the board of trustees or directors of said Chautauqua Assembly corporation in favor thereof.

### **CHAP. 515, LAWS OF 1867.**

**AN ACT** in relation to railroad corporations.

#### **The obtaining of land.**

SECTION 1. Any railroad company which has been, or which may hereafter be, duly formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least \$10,000 for every mile of its railroad proposed to be constructed in this State shall be, in good faith, subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for the construction of its railroad, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed.

### **CHAP. 775, LAWS OF 1867.**

**AN ACT** to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

#### **When corporate powers shall cease.**

SECTION 1. If any corporation formed under an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not, within five years after its articles of association are filed and recorded in the office

of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing its articles of association, as aforesaid, its corporate existence and powers shall cease.

**CHAP. 598, LAWS OF 1875.**

**AN ACT in relation to railroad corporations.**

**Extending time for construction.**

**SECTION 1.** Any existing railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified by its charter or articles of association, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to construct its railroad within the time heretofore limited shall not cause a forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power has been forfeited from any cause. (*Thus amended, Laws of 1879, chap. 350.*)

**CHAP. 405, LAWS OF 1882.**

**AN ACT in relation to railroad corporations.**

**Time extended in which to complete road.**

**SECTION 1.** Any railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified in its charter or articles of association, or heretofore limited by law, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to expend ten per centum on the amount of its capital, or to have completed its road within the time heretofore limited, shall not be deemed a cause of forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power shall have ceased prior to January first, eighteen hundred and eighty-two, who shall have been judicially ascertained and determined to have been forfeited from any cause.

**Not to apply to certain corporations.**

§ 2. The provisions of this act shall not extend or apply to any corporation or company or to the assignee or successor of any corporation or company, organized under chapter three hundred and twenty-six of the laws of eighteen hundred and eighty, entitled "An act relating to the banks and prism of the Genesee Valley canal, and for the sale thereof," or to any corporation or company that has already commenced the construction of its road. The provisions of this act shall not extend or apply to the New York and Albany Railroad Company.

**CHAPTER 264, LAWS OF 1878.**

**AN ACT to authorize corporations organized under the laws of this State to reduce their capital stock.**

**May diminish capital stock; proviso.**

**SECTION 1.** Any corporation or company organized under general or a special law of the State, and now existing, or which may hereafter be organized under such general or special law, may diminish its capital stock, by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation. But nothing in this act shall be so construed as to relieve any holder or



owner of stock in such corporation from any personal liability existing prior to such reduction; provided, that nothing in this act contained shall be construed to in any manner interfere with, or affect any law now in existence, authorizing any corporation heretofore organized to reduce its capital stock.

**Notice of meeting to reduce stock; necessary vote.**

§ 2. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of diminishing the amount of its capital stock, it shall be the duty of the trustees or directors to publish a notice, signed by at least a majority of them, in a newspaper in the county in which the business of the company is carried on, or its principal office is located, if any, shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to diminish the capital; and a vote of at least two-thirds of all the shares of stock shall be necessary to a diminution of the amount of its capital stock.

**Stock; how reduced; certificate, when filed; approval of Comptroller.**

§ 3. If, at the time and place specified in the notice provided for in the preceding section of this act, the stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy, and if, in canvassing the votes, it shall be found that a sufficient number of votes has been given in favor of diminishing the amount of capital, a certificate of the proceedings showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be diminished, shall be made, signed and verified by the chairman, and such certificate shall be acknowledged by the chairman and filed in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the Secretary of State, with the approval of the Comptroller indorsed thereon, to the effect that the reduced capital is sufficient for the proper purposes of the company, and is in excess of all debts and liabilities of the company, exclusive of debts secured by trust mortgages, and that the actual market value of the stock of the company prior to the reduction of the capital was less than the par value of the same, and when so filed, the capital stock of such corporation shall be reduced to the amount specified in such certificate, and the amount of capital left in the possession of the company over and above the amount to which the capital shall be so reduced shall be returned to the stockholders pro rata at such times and in such manner as the trustees or directors shall determine.

**CHAP. 225, LAWS OF 1880.**

**AN ACT to authorize the exchange of preferred stock for common stock of corporations.**

**Exchange of preferred stock for common, may be authorized by vote of two-thirds of the directors.**

SECTION 1. Every corporation organized under the laws of this State which has heretofore issued, or may hereafter issue, both preferred and common stock, forming part of the capital stock of such corporation, is hereby authorized, whenever the directors of such corporation shall, by vote of two-thirds of their number, declare it for the interest of the corporation so to do, and the holder of any such preferred stock may request, in writing, the exchange of the same for the common stock, to exchange the preferred stock of such holder for common stock, and to issue certificates of common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for organization of such company or the issue of such preferred stock; provided, however, that the total amount of the capital stock of such company shall not be increased thereby.

**CHAP. 560, LAWS OF 1871.**

**AN ACT** to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends General Railroad Act of 1850.)

**Change of terminus of intersecting roads; consent of stockholders requisite.**

§ 2. Whenever any railroad company shall have located its road so as to terminate at any railroad previously constructed or located, whereby communication might be had with any incorporated city of this State, and any other railroad company shall subsequently locate its road so as to intersect the road of said first-mentioned company, and thereby, by itself or its connections, afford communication with such city, then and in such case said first-mentioned company may alter and amend its articles of association so as to have its road terminate at the point of intersection with said road so subsequently located, provided the consent of the stockholders representing or holding two-thirds of the stock of said company shall have been first obtained thereto.

**Maps, surveys, etc., when to be filed or recorded in register's office; transfer and refiling authorized.**

§ 3. Whenever in said act any map, survey, profile, reports, certificate or other paper is directed to be filed or recorded in the office of the county clerk, the same shall be filed or recorded in the office of the register of the county, provided there be a register's office in said county, and all maps, profiles, surveys, reports, certificates or other papers which have, pursuant to the provisions of said act, been heretofore filed or recorded in the office of the clerk of any county in which there is a register, shall be, within thirty days after the passage of this act, transferred to the office of such register, and shall be by him refiled or recorded as of the date of the original filing or record.

(§ 4 also amends the General Railroad Act of 1850.)

**Narrow-gauge roads; when articles may be filed; contents of articles; amount of capital.**

§ 5. Corporations may be formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, for the purpose of constructing and operating railroads for public use in transporting persons and property, of the gauge of three feet and six inches or less, but not less than thirty inches within the rails; whenever capital stock of said corporation to the amount of \$1,000 for every mile of such railroad proposed to be constructed and operated has been in good faith subscribed, and whenever \$1,000 or more for every mile of such railroad proposed to be constructed shall be in like manner subscribed, and ten per cent thereon in good faith actually paid in cash to the directors named in the articles of association, and an affidavit made by at least three of said directors and indorsed on or annexed to said articles that the amount of stock hereby required has been so subscribed as aforesaid, and ten per cent thereon paid as aforesaid, and that it is intended in good faith to construct and operate such railroad, then said articles with such affidavit may be filed and recorded in the office of the Secretary of State, provided said articles contain all the other facts required by law to be stated in articles of association made for organizing railroad corporations under said act, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the amount of the capital stock of the company stated in said articles shall not be less than \$3,000 for every mile of road constructed, or proposed to be constructed, and all of the provisions of said last-mentioned act shall apply to corporations formed for the construction and operating of railroads of the gauge hereinabove mentioned, except as herein provided, or otherwise provided by law. (*Thus amended, Laws of 1879, chap. 293, subd. now § 5 of chap. 560 of Laws of 1880.*)

**Right of way, how acquired; weight of rails; fare proviso; weight of engine.**

§ 6. Any railroad company, duly organized according to law, when the gauge of its proposed railroad shall be three feet and six inches or less, but not less than thirty inches within the rail, may whenever \$2,000 for every mile of road to be constructed has been, in good faith, subscribed and ten per cent thereon paid, in good faith, in cash, apply to the Supreme Court, in the manner provided by law, for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title of lands necessary for the construction and maintenance and operating said railroad to the same extent and in the same manner as if the whole amount of the capital stock, specified in its articles of association, was in like manner subscribed and ten per cent thereon in like manner paid in cash; and may lay upon such road iron of a weight not less than twenty-five pounds to the lineal yard; such railroad company may charge and receive, when its road is not more than twenty-five miles in length, not exceeding five cents per mile; when its road is more than twenty-five and not more than forty miles in length, not exceeding four cents per mile; and when the road is more than forty miles in length, not exceeding three cents per mile for each passenger and his ordinary baggage transported on said road, provided that nothing relating to fares in this section shall apply to railroad companies now incorporated, or to any railroad now in operation, or to any railroad or part thereof located, or to be located, in the county of Kings, county of New York, or within the limits of any incorporated city. And it is further provided that in case the weight of rail used shall not exceed twenty-five pounds per lineal yard, such railroad company shall not use an engine exceeding eighteen tons weight, or run at a greater speed than fifteen miles per hour. (*Thus amended, Laws 1883, chap. 384.*)

As to Niagara Falls and Whirlpool Ry. Co., see Laws of 1886, chap. 455.

As to Chateaugay R.R. Co., see Laws of 1887, chap. 448.

**Existing corporations may construct narrow-gauge road.**

§ 7. Any railroad corporation now duly organized and legally kept in existence, which has not constructed its railroad, may construct a railroad of the gauge hereinbefore mentioned, and may acquire title to lands necessary for the construction, maintenance and operating of such railroad, on complying with the provisions of this act, and of all other provisions of law not inconsistent herewith.

## CHAPTER 452, LAWS OF 1881.

**AN ACT to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.**

**Corporation owning canal may construct railroad.**

SECTION 1. It shall be lawful for any corporation of this State owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

**Corporate powers.**

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

**Not authorized to construct railroad in any other locality.**

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

**CHAP. 386, LAWS OF 1883.**

**AN ACT** in relation to fare on short railroads, and having tracks of two gauges and not entering the limits of any incorporated city.

**Rate of fare.**

**SECTION 1.** Any railroad corporation now duly organized and having a railroad of the ordinary gauge, or the lessee of any such corporation which may by the laying down of a third rail so as also to create a track of the gauge of three feet and six inches or less, but not less than thirty inches between the rails, shall for the purpose of asking and receiving fare for the transportation of passengers over the said narrow gauge track, be deemed a railroad of the gauge of three feet and six inches or less, not less than thirty inches between the rails, when the said narrow gauge does not enter or traverse the limits of any incorporated city and said road does not exceed six miles in length, including any connecting railroad of the same gauge.

**CHAP. 829, LAWS OF 1872.**

**AN ACT** in relation to the formation of railroad companies.

**When persons who have signed articles, and who shall thereafter become stockholders, shall be and become a corporation.**

**SECTION 1.** Whenever any number of persons, not less than twenty-five, shall make and sign, or shall, before the passage of this act, have made and signed articles of association, containing the statements required by section 1 of an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the names and places of residence of thirteen directors of the company, as therein provided; and thereafter thirteen directors have been chosen at a meeting of subscribers to such articles, and the names and places of residence of such directors so chosen have been inserted in such articles so subscribed, and there has been indorsed thereon the affidavit prescribed by the second section of said act, and said articles have been filed and recorded in the office of the Secretary of State; thereupon, the persons who have subscribed such articles, and all persons who shall thereafter become stockholders in such company, shall be a corporation by the name specified in such articles of association, and have the same powers and privileges, and be subject to the same liabilities, as though such articles had, when signed, contained the names and places of residence of such directors.

**CHAP. 19, LAWS OF 1851.**

**AN ACT** in relation to railroad corporations.

**Line common to two companies may be built by one; articles, how amended.**

**SECTION 1.** Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection and may reduce its capital to a sum not less than \$10,000 for each mile of the road proposed to be constructed in such amended articles of association.

**Part of line may be constructed in another State.**

**§ 2.** Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26, 1848, or under the

act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, that a part of the line of their railroad proposed to be made between any two points in this State, ought to be located and constructed in an adjoining State, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this State shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this State.

(Section 3 obsolete except as to railroads formed under act of 1848, and hence omitted.)

#### **Damages for crossing turnpike or plankroad.**

§ 4. In case any railroad shall occupy or cross any turnpike or plankroad, the railroad company shall pay such turnpike or plankroad company all damages the turnpike or plankroad company may sustain by reason of the occupancy or crossing such turnpike or plankroad, the damages to be ascertained and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

(Chapter 140, Laws 1854, entitled "An act relative to the construction of railroads in cities," is omitted as being practically obsolete since the passage of the General Street Railroad Act, chap. 252, Laws of 1884. Its application is limited to railroads which commence and end in a city.)

#### **CHAP. 843, LAWS OF 1872.**

**AN ACT** to amend an act entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,' passed April 2, 1850."

(Section 1 amends Laws of 1866, chapter 697.)

**Where portions of lines of two roads embrace same location, companies may provide, by agreement, for construction of line by one company; Railroad Commissioners not to be compelled to surrender bonds until consent of tax payers is obtained.**

§ 2. Whenever two railroad companies, for a portion of their respective lines, embrace the same location of line, or whenever their lines connect or are tributary to each other, such companies may, by agreement, provide for the construction, by one of said companies, of so much of said line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed; and the company so constructing the common and connecting and tributary portion of road shall, if the terms of such agreement so provide, be entitled to have and receive all the town bonds which have been or may be authorized to be issued to either company in aid of the construction thereof, and the towns authorized to issue such bonds are hereby authorized and required to exchange the same for the stock or bonds of the railroad company that shall, under such agreement, construct a railroad upon the line designated therein, to an amount specified in the petition of the tax payers, or remaining unpaid on their subscription to the stock of either of said railroad companies. Nothing in this act contained shall be construed so as to compel the commissioners of any town that has assented to bond for railroad purposes for any specified line of railroad to surrender the bonds of any such town to any other railroad organization, until the assent of a majority of the tax payers, owning a majority of the property appearing upon the assessment-roll of such town, has been first obtained, (and shipping lines) (description of the roads, etc., as in the articles of association) and have complied with the statutes of this State in such cases made and provided; now,

therefore, I (name of secretary) Secretary of State of the State of New York, do hereby certify that the persons aforesaid, their associates and successors, are legally established as a corporation under the name of (name of corporation) with all the powers and privileges and subject to all the duties, liabilities and restrictions set forth in an act of the Legislature of the State of New York, entitled "An act passed the day of in the year eighteen hundred and eight-one."

In witness I have hereunto subscribed my official signature and affixed the seal of this State, this day of in the year

*Secretary of State.*

#### **Certificate to be recorded.**

§ 3. The certificate executed as provided in the last section shall be recorded with the articles of association, and the original certificate, or a duly certified copy of the record thereof, shall be conclusive evidence of the establishment of the corporation at the date of such certificate.

#### **Board of directors.**

§ 4. The government and direction of the affairs of every corporation formed under this act shall be vested in its board of directors, who shall hold their offices for one year and until others are elected in their places. In case of a vacancy occurring in such board of directors by death, resignation or otherwise, the remaining members of the board may fill such vacancy. The board of directors shall have power to make, and from time to time to amend the by-laws of the company, and may, by such by-laws, provide that less than a majority of the board shall constitute a quorum, and may delegate any and all of the powers of the board of directors to an executive committee during the interval between the meetings of the board. The directors shall elect one of their number to be president of their board and of the corporation, and may elect such other officers as shall be provided by the by-laws.

#### **Corporate powers.**

§ 5. Every corporation formed under this act shall, in addition to the powers conferred on corporations under the laws of this State, have the following powers:

1. To expend such sums of money from its treasury as the directors shall deem proper, in making preliminary examinations and surveys for its proposed railroad or railroads, line or lines of telegraph, and of steamboats or sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges as below named.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted or conceded to such company, and to hold the same under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its articles of association, and to take and convey persons and property on their said transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor, regulating the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, in accordance with the laws of the place or country where the same are situated.

4. To take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary or convenient for the construction, maintenance and accommodation of its said lines, and to sell and convey, or to mortgage, or to lease such real estate or other property, so acquired in foreign countries; but such corporations shall be subject to such duties, liabilities and restrictions as to the transfer of its property by deed, mortgage, lease or otherwise.

## CHAP. 108, LAWS OF 1875.

## AN ACT in relation to railroad corporations.

**What companies may consolidate.**

SECTION 1. In any case where two or more railroad companies shall have been, or shall hereafter be, organized under the laws of this State, the whole of whose lines, as located by them, respectively, shall form one continuous and connecting line of road, the said companies may consolidate their lines of roads, stock, franchises and property, according to the existing laws of this State relating to the consolidation of railroad companies; and any such consolidated company may thereupon construct or finish the construction of such continuous line of railroad, and operate the same subject to all provisions of law applicable to railroad corporations organized under the said laws, so far as not inconsistent with this act; but this act shall not in any manner affect the existing laws regulating the rate of fare on any railroad, (*Thus amended, Laws of 1883, chap. 387.*)

## CHAP. 468, LAWS OF 1881.

## AN ACT to authorize the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries.

**Corporators and corporate objects.**

SECTION 1. Any number of persons, not less than ten, a majority of whom shall be inhabitants of this State, may form a company for the purpose of constructing, maintaining and operating in any foreign country a railroad or railroads for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any railroad or railroads, already constructed in whole or in part, for the like public use with power to construct, maintain and operate in connection with such railroad or railroads a line or lines of telegraph, and such lines of steamboats or sailing vessels as may be proper or convenient for use in connection therewith; and for that purpose may make and sign articles of association in the form provided by section 2 of this act; and upon complying with the provisions of the said section shall, with their associates and successors, be and remain a corporation for the purposes aforesaid, with the powers given by this act and by the laws of this State.

**Articles of association to be approved by the Governor, etc.; form of certificate.**

§ 2. The articles of association, mentioned in the preceding section, shall state the name of the company; the number of years the same is to continue, not exceeding the term of one hundred years; as far as practicable the places from and to which the said line or lines shall be constructed, maintained and operated; the amount of the capital stock of the company and the number of shares of which such capital stock shall consist, and the names and places of residence of not less than seven persons, who shall act as a board of directors for the management of the affairs of the company for the first year and until others are chosen in their places. Each subscriber of such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. The said articles of association shall, after the approval, by the Governor, of the same, be filed in the office of the Secretary of State, who, upon the payment to him of a fee of \$30, shall indorse thereon the date they are filed and record the same in a book to be provided by him for that purpose, and shall issue a certificate substantially in the following form:

**STATE OF NEW YORK:**

Be it known that whereas (names of the subscribers to the articles of association) have associated themselves with the intention of forming a corporation under the name of the (name of corporation) for the purpose of locating, constructing or acquiring,



maintaining and operating a railroad or railroads (and telegraph) in foreign countries, as may be fixed by the country in which the same may be located.

5. To purchase, hold and use such real estate and other property in this State as may be necessary for the conduct of its business, provided that such company shall not hold real estate in this State exceeding in value the sum of \$1,000,000.

6. To acquire, by purchase or otherwise, any railroad or railroads, or line or lines of telegraph constructed or in process of construction in any foreign country or countries, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and also to mortgage or to sell and convey to any person or persons, or any corporation or corporations created by this or any other State, or any foreign government, the whole or any part of the railroad or railroads, line or lines of telegraph, steamboats, sailing vessels, grants, concessions, franchises, rights, privileges, immunities, and other property of any sort or description held or owned, or to be acquired by it; provided, however, that the powers of sale in this clause granted shall only be exercised by a majority of the entire board of directors of said corporation, with the concurrence, in writing, of the holders of two-thirds in amount of the capital stock thereof. (*Added by chap. 369, Laws of 1885.*)

#### **When company may proceed to organize.**

§ 6. Upon the issue of the certificate named in section 2, any corporation formed under the provisions of this act may proceed to organize, and for that purpose the first meeting of such corporation shall be called by a notice signed by a majority of the directors named in such articles, stating the time, place and purpose of such meeting, a copy of which notice shall, at least five days before the day appointed for such meeting, be delivered personally to each subscriber, or left at his usual place of business or residence, or deposited in the post-office prepaid and directed to him at his last known post-office address. There shall be recorded upon the minutes of the corporation an affidavit of such service of the said notice.

#### **When to open subscription books.**

§ 7. When any corporation formed under this act shall have been organized, the board of directors for the time being of such company may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places and after giving such notices as they may deem expedient, and may continue to receive such subscription until the whole capital stock is subscribed. At the time of making subscriptions in pursuance of the provisions of this section, every subscriber shall pay to the directors ten per centum of the amount subscribed by him in money, and no such subscription shall be received or taken without such payment.

#### **Payment of subscriptions to stock.**

§ 8. The board of directors for the time being of any corporation formed under this act may require the subscribers to the capital stock of the company to pay the amounts by them respectively subscribed, and in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installments as required by resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have given a notice in writing to be served upon him personally or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same his stock and all previous payments thereon will be forfeited to the use of the company; which notice shall be served as aforesaid at least thirty days previous to the day upon which such payment is required to be made.

#### **Principal office; annual meeting; number of directors to be chosen.**

§ 9. Every corporation formed under this act shall maintain its principal office within this State, and shall there have during business hours an officer or agent upon whom service of process may be made, and shall hold in this State at least one meeting of its stockholders in each year, for the choice of directors. Such meeting shall be known as the annual meeting, and shall be held at such time and place as shall be established by the by-laws of such company. At such meeting the stockholders shall fix the number

of directors for the ensuing year, which number shall not be less than seven, and in the absence of any other direction by the stockholders, seven shall be chosen.

**Meeting of stockholders, etc.**

§ 10. At all meetings of the stockholders of any corporation formed under this act, each stockholder shall be entitled to one vote personally or by proxy on every share held by him thirty days previous to such election. The inspectors of each election shall be appointed by the board of directors for the time being, or if no such appointment be made by the board, then by the president. No person shall be elected a director, or continue to be such director, unless he shall be a stockholder, owning stock absolutely in his own right, and at every election of directors the books and papers of such company shall be exhibited to the meeting, if a majority in amount of the stockholders present shall require it.

**Reduction or increase of capital stock; amended articles of association.**

§ 11. Any corporation formed under this act may, from time to time, at any regular or special meeting of the board of directors, reduce the amount of the capital stock or increase the same, or may otherwise alter and amend its articles of association, provided, in either case, that the consent in writing of the stockholders owning two-thirds of the capital stock of the company shall have been first obtained to such increase or diminution of the capital stock, or to such alteration of the articles of association. If any increase or reduction of the capital stock is made, or any other amendment made to the articles of association, a certificate of the fact, signed by the president and secretary of the corporation, shall, within thirty days thereafter, be filed in the office of the Secretary of State. The directors of any corporation organized under this act, in whose original certificate of incorporation any informality may exist, are hereby authorized to make and file amended articles of association to conform to the provisions of this act, and upon making and filing such amended articles of association, such corporation shall, for all purposes, be deemed and taken to be a corporation from the time of the filing of the original articles.

**Stock to be personal estate.**

§ 12. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company; but no share shall be transferable until all previous calls thereon shall have been fully paid in, and it shall not be lawful for such company to use its funds in the purchase of any stock of its own or any other corporation, except so far as the same may be agreed upon in its articles of association.

**Subject to taxation.**

§ 13. All corporations formed under the provisions of this act shall be subject to taxation upon the amount of the real or personal property owned by such corporations within this State.

**CHAP. 361, LAWS of 1883.**

AN ACT to amend chapter 119 of the Laws of 1875, entitled "An act to amend chapter 146 of the Laws of 1872, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof.'"

**Corporations may acquire and hold real estate in other States and foreign countries.**

SECTION 1. Section one of chapter one hundred and nineteen of the laws of eighteen hundred and seventy-five, entitled "An act to amend chapter one hundred and forty-six of the laws of eighteen hundred and seventy-two, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States with the consent thereof,'" is hereby amended so as to read as follows:

§ 1. Section one of chapter one hundred and forty-six of the laws of eighteen hundred and seventy-two, entitled "An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof," is hereby amended as follows:

§ 1. It shall be lawful for any corporation organized under the laws of this State, and transacting business in it and other States, or foreign countries, except

savings banks, to acquire, hold and convey in such States or foreign countries, with the consent thereof, such real estate as shall be requisite for such corporation, in the convenient transaction of its business, and to invest its funds in the stocks, bonds or securities of other corporations owning lands situated in this State or such States, provided that loans shall not be made on any stocks upon which dividends shall not have been declared continuously for three years, immediately before such loans are made; and provided further that such stocks shall be continuously of a market value twenty per cent greater than the amount loaned or continued thereon.

**Repeal.**

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

**CHAP. 450, LAWS OF 1887.\***

**AN ACT** extending to corporations organized under the laws of other States, and doing business within this State, the right to hold, purchase and convey real estate.

**SECTION 1.** It shall be lawful for any corporation duly organized under the laws of any other State of the United States of America, doing business in this State, to hold and purchase such real estate or interest in real estate within this State as is or shall be necessary for the use and corporate purposes of such corporation in the transaction of its business within this State, and to convey the same by deed or otherwise in the same manner as though such corporation had been organized under the laws of and located within this State.

**CHAP. 573, LAWS OF 1868.**

**AN ACT** to afford the same facilities to passengers or property transported by steamboat on the Hudson river as is afforded by railroads.

**Steamboats authorized to furnish tickets.**

**SECTION 1.** The proprietors of any steamboat, or line of steamboats, navigating the Hudson river are hereby authorized and empowered to furnish tickets upon being paid therefor, for the transportation of passengers from any station on the line of any railroad terminating at the city of Albany or Troy, for the conveyance of such passengers from the city of Albany or Troy, to the city of New York on their said steamboats. On such tickets being furnished to any such railroad company it shall be their duty to require their ticket agent, at any station on the line of their road, to sell such tickets, and to any passenger who shall make application therefor, at a price which shall be equal to the amount of fare charged upon such road to the city of Albany or Troy, with the addition of such price as shall be fixed by the proprietor of such steamboat for the transportation of such passengers from Albany or Troy to New York.

**Baggage checks.**

§ 2. The proprietors of said steamboat, or line of steamboats, are also authorized and empowered to furnish baggage checks for the transportation of any passenger's baggage through to the city of New York by the way of their said steamboats, and on such checks being furnished to the baggage-master, at any station on the line of said railroads, it shall be his duty to check baggage on the application of any passenger through to the city of New York, which baggage, on its arrival in the city of Albany or Troy, shall be delivered up to the authorized agent of any steamboat, or line of steamboats, to be transported from the railroad to the steamboat on which such passenger contemplates going, without the check being removed from such baggage. And said baggage shall be transported from railroad station to steamboat landings, and from steamboat landings to railroad station by said steamboat owners, free of charge.

**Railroads to furnish tickets.**

§ 3. It is hereby made the duty of every railroad company which terminates at the city of Albany or Troy, on application being made therefor by the proprietor of any steamboat, or line of steamboats, navigating the Hudson river, to furnish them with

\*This act seems broad enough by its term to cover railroad corporations, but there may be some doubt whether such was the intent of the Legislature. *R. R. Commissioners.*

tickets for the transportation of passengers from the city of Albany or Troy to any point on the line of their respective roads, to be sold by such steamboat proprietors in their respective offices, and to receive and transport the baggage of any passenger which shall be checked through to any point beyond the city of Albany or Troy; such tickets to be sold and paid for to the railroad or steamboat company which shall furnish the same at the price charged by such company for the conveyance of such passenger to the place which such ticket purports to carry him. The object and intent of this act being to compel railroad companies to furnish the same facilities to passengers going to or from the city of New York by boat as is afforded those who go by the railroad.

#### **Transfer of freight.**

§ 4. If any freight shall be delivered at any station on the line of any railroad which terminates in the city of Albany or Troy for transportation to the city of New York, which is marked to go to New York via boat or any particular line of boats, it shall be the duty of the railroad company to whose agent such freight shall be delivered to receive the same and transport it with all convenient speed to the city of Albany, and on its arrival there the company over whose road the same has been transported shall forthwith cause to be notified the agent of the steamboat line by which it is directed to be sent, and shall deliver the same to such agent with the bill of charges thereon due such railroad company, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible. But the railroad company transporting such freight shall not charge for its transportation over its road any greater sum than they charge for carrying the same kind of freight the same distance over their road if the same were transported from Albany or Troy to New York by railroad, and any freight delivered by the authorized agent of any steamboat or steamboat company for transportation over any railroad which shall have been brought from New York by boat shall be transported by such railroad company to its place of destination for the same price as it would be if brought from New York by railroad.

#### **Penalty.**

§ 5. Any railroad company in this State, whose agent or servants shall neglect or refuse to sell tickets or furnish a check, as is provided for in this act, when the same shall have been furnished them, shall be liable to the same penalty as is provided for in section 37 of the act passed April second, 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and no fare or toll shall be collected or received from any passenger whose application for such ticket or check shall have been refused, for riding over the road of said company, and in addition thereto the said railroad corporation shall be liable to a penalty of \$250, to be recovered in the name of the proprietor or proprietors of any steamboat line navigating the Hudson river in any court of competent jurisdiction for each day they shall neglect or refuse to comply with the provisions of this act, unless such neglect or refusal is caused by a failure on the part of such steamboat proprietor or proprietors to furnish tickets and checks as herein provided for.

#### **Limitation.**

§ 6. The provisions of this act, so far as relates to the sale of tickets and furnishing of checks, shall not apply to either the Hudson River or New York and Harlem Railroad Companies.

### **CHAP. 273, LAWS OF 1882.**

AN ACT to extend the operation and effect of chapter 40 of the Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," and of the several acts supplementary thereto and amendatory thereof.

#### **Corporators; purpose.**

SECTION 1. Any three or more persons may organize themselves into a corporation in the manner specified and required in and by chapter 40, Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," for the purpose of purchasing, acquiring, building upon and improving real estate for union railway depots, to be leased and occupied by any rail-

road company or companies owning, leasing or operating a railroad within this State. The corporations so formed shall be subject to all the privileges and obligations of the act aforesaid, and all acts amendatory thereof, or supplementary thereto, and shall have power to take and hold by purchase, contract or lease, and convey such real estate as shall be necessary to carry out the objects of said corporation.

**Railroad corporation may take and hold stock.**

§ 2. Any railroad corporation, created under and by the laws of this State or of any adjoining State, is hereby authorized to subscribe for, take and hold the stock of corporations created under and by virtue of this act in such amounts as the directors of the said subscribing corporation may, from time to time, deem best for its interests.

**Directors may make rules and regulations.**

§ 3. The directors of any corporation, organized under and in pursuance of this act may, from time to time, make such just, proper and needful rules and regulations for the use of the union depot or depots owned or acquired by it as to the said directors, or a majority of them, may, from time to time, seem proper.

**CHAP. 218, LAWS OF 1839.**

AN ACT authorizing railroad companies to contract with each other.

**Companies may contract.**

SECTION 1. It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation to be used by any other railroad corporation, in a manner inconsistent with the provisions of the charter of the corporation whose railroad is to be used under such contract.

**CHAP. 254, LAWS OF 1867.**

AN ACT in relation to railroads held under lease.

**Lessees of railroad may acquire stock therein.**

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation, to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock shall not be in any way affected hereby, nor shall existing liabilities or the rights of creditors of the corporation, where stock shall have been so surrendered or transferred, be in any way affected or impaired by this act. (*Thus amended, Laws of 1879, chap. 503.*)

## CHAP. 302, LAWS OF 1855.

**Lessee of corporation may take, surrender or transfer capital stock of leased road and issue in exchange therefor like amount of its own capital stock at par in certain cases — effect thereof.**

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, now being the lessee of the road of any other railroad corporation, make take, surrender, or transfer of the capital stock of the stockholders, or any of them, in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporations taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation, whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder, not so surrendering or transferring his stock, shall not be in any way affected hereby; nor shall existing liabilities, or the rights of creditors of the corporation whose stock shall have been so surrendered, be in any way affected or impaired by this act.

**Not to apply to Genesee Valley railroad.**

§ 2. This act shall not be construed as applying to or embracing the Rochester and Genesee Valley railroad, nor any part thereof, and said road is hereby expressly excepted from the operation of the same.

## CHAP. 349, LAWS OF 1880.

**AN ACT relating to leases of railroads and railroad property within this State.**

**Lease of railroads not exceeding ten miles in length.**

SECTION 1. Whenever any railroad, or railroad route not exceeding ten miles in length, and its franchises within this State has been heretofore leased by one railroad company or corporation to any other railroad company or corporation with the assent of a majority in amount of the stockholders of the company owning such leased railroad or railroad route and franchises, it shall be immaterial whether the assent of said stockholders has been obtained at a stockholders' meeting, or has been individually given in writing; and the leases of all such railroads within this State, which have received such assent of a majority in amount of the individual stockholders of the company or corporation owning the leased road, are hereby declared to be as legal and valid as they would have been had such assent been given at a stockholders' meeting regularly called for that purpose. And any railroad company now engaged in operating any railroad so leased may continue to use and operate the same during the term of the lease, upon complying with the terms, covenants and provisions of such lease; and to at end all such leases are hereby ratified and confirmed.



**CHAP. 582, LAWS OF 1864.**

**AN ACT** to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends subdivision 5 of section 28, General Railroad Act of 1850.)

**Lessees of railroad corporations to maintain fences; cattle-guards.**

§ 2. And when the railroad of any railroad corporation shall be leased to any other railroad company, or to any person or persons, such lessee shall maintain fences on the sides of the roads so leased, of the height and strength of a division fence, as required by law, with openings, or gates, or bars therein, at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent horses, cattle, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such lessees and their agents shall be liable for damages which shall be done by the agents or engineers of any such corporation, to any cattle, horses, sheep or hogs thereon; and when such fences and guards shall have been duly made, and shall be kept in good repair, such lessee shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no lessees of a railroad corporation shall be required to fence the sides of said roads except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad, from the lands adjoining the same.

**Drinking water to be kept in cars; where main route of road does not exceed twenty miles board of directors may consist of seven of its stockholders.**

§ 3. Every railroad company whose line of road shall exceed forty continuous miles in length shall, for the better comfort of passengers, provide in each passenger car a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and shall keep the said receptacle while said car is in use constantly supplied with cool water, and any company failing to obey the provision of this section shall, for each offense of omission as aforesaid, forfeit as a penalty the sum of twenty-five dollars; one-half of said penalty to be paid to the informer, and the remaining one-half to the overseer of the poor of the county in which judgment shall have been recovered; and any railroad company whose main route of road does not exceed twenty miles may have a board of directors to manage its affairs, consisting of seven of its stockholders, to be chosen in the manner provided by law. (*Thus amended by chap. 48, Laws of 1883.*)

(The remaining sections of this act amend the General Railroad act.)

**CHAP. 844, LAWS OF 1869.**

**AN ACT** to amend an act entitled "An act in relation to railroads held under lease," passed April 3, 1867.

**Report to State Engineer.**

SECTION 1. Any railroad corporation which may be the lessee of any other railroad shall, in addition to the powers and duties conferred and imposed by the act entitled "An act in relation to railroads held under lease," passed April 3, 1867, be required to make to the State Engineer a report of such facts concerning the operation of said leased road or roads as the lessors would otherwise be required to make, and the lessors shall not be required to make such report.



**CHAP. 230, LAWS OF 1845.**

**AN ACT in relation to the contracts of railroads.**

**Limitation to amount of debt.**

**SECTION 1.** No debt or debts shall be contracted or incurred by or on behalf of any incorporated railroad company beyond or exceeding its available means in its possession, under its control and belonging to it, including its *bona fide* and available stock subscriptions and exclusive of its real estate, at the time the same shall be contracted or incurred, to pay and discharge the same and all its debts previously contracted or incurred; and every officer, agent or stockholder of said company who shall knowingly assent to, or have any agency in contracting or incurring any debt, in violation of the provisions of this section, shall be personally and individually liable to pay such debt; and shall also be liable to arrest and imprisonment in any action for the same, and on any execution issued on any judgment obtained for the same, in the same manner as defendants in actions of trespass are now liable, and shall also be deemed guilty of a misdemeanor; but the debts contracted in violation of the provisions of this section shall not be deemed invalid as against said company by reason thereof; provided that nothing herein contained shall apply to any loan which any company shall be expressly authorized by law to make over and above the available means aforesaid.

**CHAP. 383, LAWS OF 1883.**

**AN ACT** entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock, and providing for the record thereof."

**Conditional sale of equipment and rolling stock to be invalid as to judgment creditors and purchasers, without notice unless evidenced in writing and recorded.**

**SECTION 1.** Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possession and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contract shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the State, or in the office of the register in counties where there is a register's office.

**Name of vendor, etc., to be on locomotive or car, etc.**

3. Each locomotive or car so sold, leased or loaned shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor, plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

**Not to invalidate any contract heretofore made if recorded within ninety days.**

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

**CHAP. 488, LAWS OF 1885.**

**AN ACT** to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerks' and other offices."

**Amending section 2, chapter 315, Laws 1884.**

**SECTION 1.** Section 2 of chapter 315 of the Laws of 1884, entitled "An act requiring

contracts for the conditional sale of personal property on credit to be filed in the town clerks' and other offices," is hereby amended so as to read as follows:

**Instruments, where to be filed.**

§ 2. The instruments mentioned in the preceding section shall be filed in the several towns and cities of this State, where the person to whom such property is so contracted to be sold, if a resident of this State, shall reside at the time of the execution thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this State other than the cities of New York and Brooklyn, and in the several towns of this State in which a county clerk's office is kept, in such office; and in each of the other towns of this State, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register, and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

**CHAP. 215, LAWS OF 1846.**

**AN ACT to incorporate the New York and Connecticut Railroad Company.**

**Every railroad company required to contract for carrying the United States mail; penalty.**

Sections 1 to 16, both inclusive, relate to the New York and Connecticut Railroad Company.

§ 17. Every railroad company, upon being thereto required by the Postmaster-General of the United States, shall enter into a contract with the United States, in the usual form, and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay the people of this State \$100 for every day it shall so neglect or refuse.

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**CHAP. 270, LAWS OF 1847.**

**AN ACT relating to the transportation of freight on certain railroads.**

(Sections 1 and 2 are of a local nature, and are, therefore, omitted; sections 3 to 7, both inclusive, relate to tolls on railroads abolished by chapter 497, Laws of 1857.)

**Saving clause.**

§ 8. No provision of the preceding sections of this act shall be deemed in any way to affect the ordinary baggage of passengers, provided the same shall not exceed in weight 100 pounds.

**Rights of railroad companies.**

§ 9. Any railroad company receiving freight for transportation shall be entitled to the same rights and be subject to the same liabilities as common carriers. Whenever two or more railroads are connected together, any company owning either of said roads receiving freight to be transported to any place on the line of either of the said roads so connected shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum by reason of the neglect or misconduct of any other company or companies, the company paying such sum may collect the same of the company or companies by reason of whose neglect or misconduct it became so liable.

## CHAP. 364, LAWS OF 1882.

AN ACT to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburgh and Lake Champlain railroad at Rouse's Point.

**Freight to be exchanged in same cars in which same is billed for transportation.**

SECTION 1. All freight billed or consigned from points in this State, or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad and Ogdensburgh and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

**Cars offered by one company to another to be taken in the usual manner.**

§ 2. All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

**No additional charge to be made.**

§ 3. No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

**Penalty for violation of this act.**

§ 4. Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of \$500.

## CHAP. 272, LAWS OF 1847.

AN ACT to authorize railroad companies to lay down upon their roads the heavy iron rail, to alter the line of their road, and to acquire the title to lands which have failed.

(Sections 1 and 2 are now obsolete, and are therefore omitted.)

**Provision to enable companies to acquire valid title to land.**

§ 3. In any case where a railroad shall not have acquired a valid and sufficient title to any land upon which they may have constructed their tracks, or where the title to any such lands has been or shall hereafter be rendered invalid by reason of any mortgage judgment or other lien affecting the same, then such company in either case is authorized to obtain and acquire title to the said land by purchase of the persons, bodies corporate or politic, owning the same, or having an interest therein, if such purchase can be effected by agreement between the owners thereof and such company; but if not, such company shall have the power to cause compensation to be made therefor, and for that purpose they shall present a petition to a court of record in the county in which such land may lie, setting forth the failure of such title, and the manner in which such failure occurred, and the name and residence of the owner or claimants, and praying for the drawing of a jury to determine the compensation to be made therefor. The said court of record shall thereupon direct notice to be given, in writing, to the owners or claimants of such lands, of the time and place of the drawing of such jury, which drawing shall be in the county in which such lands are situated, and upon proof of the service of such notice and hearing, the parties who may attend such court of record shall cause such jury to be drawn in such manner and at such place as it shall direct; said court shall cause the said jury to be sworn, and shall prescribe the time and place of the meeting of said jury, and the notices to be given to the owners or claimants of the proceedings before said jury. The said jury shall view the premises for which compensation is to be made, and shall, without fear, favor or partiality, determine the compensation to be made for said land, the title to which shall have become invalid or insufficient as aforesaid, and may hear and examine witnesses on oath in relation to the same. The said jury shall make an inquisition of their appraise-

ment or assessment, and shall cause the same to be filed in the office of the clerk of the county in which such land is situated. Upon proof to the court, within thirty days after the filing of the inquisition of the jury, of payment to the owner or claimant, or of depositing to his or their credit in such bank as the said court shall direct, of the amount of such appraisalment, and of all the costs and expenses attending it, including reasonable counsel fees (to be taxed and certified by said court), the said court shall make an order describing the land and reciting the assessment or appraisalment thereof; and the mode of making it, which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance, and such railroad company or corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purposes of such corporation. This provision shall not be construed to change or impair the duties or obligations of such corporation in regard to fencing said land or making and maintaining crossing places over said road, as prescribed in their charter; but nothing herein contained shall be construed to impair or affect the right of any individual to recover the costs and expenses of any legal proceedings commenced prior to the passage of this act, or to recover such sum for the use of any land occupied by such corporation as he or she is entitled to by law.

(Section 4, as to change of line, and section 5, as to weight of rails, etc., omitted as unimportant.)

**Checks to be furnished and attached to each parcel of baggage; when baggage to be given to owner.**

§ 6. It shall be the duty of every railroad company hereafter to furnish and attach checks to each separate parcel of baggage which they, by their agents or officers, receive from any person for transportation as ordinary or extraordinary baggage, in their baggage cars accompanying their passenger trains, and they shall also furnish to such a person a duplicate check or checks, having upon it or them a corresponding number to that attached to each parcel of baggage; said checks and duplicates shall be made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and each check furnished with a convenient strap or other appendage for attaching to baggage, and accompanying it a duplicate to be delivered to the person delivering or owning such baggage, and whenever the owner of said baggage or other person shall, at the place where the cars usually stop, to which said baggage was to be transported, or at any other regular stopping place, present said duplicate check or checks to the officer or agent of the railroad, or any railroad over any portion of which said baggage was transported, they shall deliver it up to the person so offering the duplicate check or checks without unnecessary delay; and a neglect or refusal on the part of any railroad company, its officers or agents, to furnish and attach to any person's ordinary traveling baggage or extraordinary baggage, if conveyed by their passenger train, a suitable check or checks, and to furnish to such person proper duplicate or duplicates, shall forfeit and pay to such person or owner, for every such refusal or neglect, the sum of \$10, to be recovered in an action for debt.

(Chapter 404, Laws of 1847, being an act to enable railroad companies to alter their routes and acquire title to land, is omitted as being generally obsolete.)

(Chapter 405, Laws of 1847, being an act to authorize certain railroad companies to issue stock or to borrow money to lay a second track, is omitted as being generally obsolete.)

**CHAP. 444, LAWS of 1857.**

**AN ACT** further to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

**Mortgage sales.**

**SECTION 1.** It shall be lawful for any mortgagee of any railroad and the franchisee thereof to become the purchaser of the same at any sale thereof under the mortgage

upon foreclosure by advertisement, or under a judgment or decree, or otherwise, and to hold and convey the same, with all the rights and privileges belonging thereto or connected therewith.

**Special estates, how acquired.**

§ 2. Whenever there shall be one or more of the estates enumerated in article 1 of title 2 of chapter 1 of the second part of the Revised Statutes, entitled "Of the creation and division of estates," in any land required by any railroad company for the purpose of its incorporation, such company may acquire such estate and land by means of the special proceedings authorized by the act hereby amended. In every such case the railroad company, in addition to the statements now required by said act, shall set forth and state in its petition the facts in relation to any such estate, and the person, persons or class of persons, then in being or not in being, who are or may become entitled, in any contingency, to any estate as aforesaid in such land, and may pray that such estate may be acquired, and such persons may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court to appear in such proceedings and represent the rights, interests and estate of the person, persons or class of persons aforesaid in any such land, and to protect the same, on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of the appraisal, to ascertain by such report, or by a reference for that purpose, or otherwise, in its discretion, the rights, interest and estate of such person, persons or class of persons in the land so appraised, and in the compensation awarded therefor, and to make an order determining the amount or share of such compensation to which such person, persons or class of persons are or may become entitled on account of such estate, as the same shall arise or become vested in them respectively, and to direct and to provide for the payment, investment or securing thereof, for the benefit of the person, persons or class of persons aforesaid, who are or may in the contingency upon which such estate arises, become entitled thereto; upon the company paying or securing such amount or share in the manner directed by such order of the court it shall be deemed to have acquired, and shall be vested with the estate, which such person, persons or class of persons have or may be entitled to in said land, and they shall be barred of and from all right or claim in and to such land. Any railroad corporation in this State may acquire the title in fee, by the special proceedings hereinbefore mentioned to any land which it may require for roadway and for necessary buildings, depots and freight grounds.

**Sale of unclaimed baggage and freight authorized; notice of sale to be published; money arising therefrom to be deposited with Comptroller; notice of sale must be served on Comptroller.**

§ 3. Every railroad or other transportation company incorporated under the laws of this or any other State, and doing business within this State, which shall have had unclaimed freight or baggage not perishable in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in the State paper once a week for not less than four weeks, and for a like period in a newspaper other than the State paper published at the place designated for the sale, and also in one published in the city of New York (said notice shall contain, as near as practicable, a description of such freight or baggage, the place or time when left, together with the name of the owner of the freight or person to whom consigned, if the same be known). All moneys arising from the sale of freight or baggage, as aforesaid, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and the amount previously paid for the loss or non-delivery of freight or baggage shall be deposited by the company making such sale, accompanied with a report thereof and proofs of advertisement, with the Comptroller, for the benefit of the general fund of the State, and shall be held by him in trust for reclamation by the persons entitled, or who may become entitled to receive the same. No sale as herein provided shall be valid unless a copy of the notice above specified shall be served upon the Comptroller for at least two weeks prior to the time designated for such sale. (*Thus amended, chap. 444, Laws of 1884.*)

**Disposition of unclaimed baggage and perishable freight.**

§ 4. In case such unclaimed freight or baggage shall, in its nature, be perishable, then the same may be sold as soon as it can be, at the best terms that can be obtained.

**CHAP. 198, LAWS OF 1876.**

**AN ACT** to amend chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same."

(Section 1 amends section 18 of the General Railroad Act.)

**Notice when the land required forms part of street.**

§ 2. Whenever any land required by a railroad company for the purposes of its road is contained in, or forms a part of any street or avenue in any city or village in which the owners of adjoining lands on the line of such street or avenue claim a right of property or the fee thereof, in such case the notice to be given of the application for the appointment of commissioners under the special proceedings under the act to acquire title to such land, as well as the notice of hearing before such commissioners, shall be served by the publication of the said notice twice each week, for three weeks, in at least two newspapers published in the county in which such city or village is located, to be designated by the court to which the said application is to be made.

(Chapter 395, Laws of 1879, authorizes elevated railroads to increase directors.)

**CHAP. 53, LAWS OF 1853.**

**AN ACT** to amend an act entitled "An act in relation to railroad corporations," passed February 13, 1851.

**Appointment of commissioners amending section three of the act of 1851, by adding after the words "1848" the words "or an act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, etc.**

SECTION 1. The third section is hereby amended by inserting after the word "1848" the words or "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, so that said section as amended shall read as follows: Any railroad company which, prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this State, shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed.

**CHAP. 300, LAWS OF 1837.**

**AN ACT** relative to unclaimed trunks and baggage.

**Description of same to be entered in a book.**

SECTION 1. The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this State, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same

was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

**Description of property to be made and published in State paper.**

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the State paper, whose duty it shall be, on the first Mondays of July, October, January and April, in each year, to publish the same in the State paper once a week for three weeks successively.

**If not claimed for sixty days after said publication, to be opened and examined and an inventory made; when to be sold at public auction upon what notice; disposition of proceeds.**

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examination, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

**Expense; to be a lien on property.**

§ 4. The person making the entry of unclaimed property as above specified shall be entitled to twelve and a half cents for each trunk, box, bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

**Penalty.**

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same, in his own name, in an action of debt in any court having cognizance thereof.

**CHAP. 779, LAWS OF 1868.**

**AN ACT in relation to mortgages executed by railroad companies.**

**Chattel mortgages.**

SECTION 1. It shall not be necessary to file as a chattel mortgage, any mortgage which has been or shall hereafter be, executed by any railroad company upon real and personal property, and which has been or shall be recorded as a mortgage of real estate in each county in or through which the railroad runs.



**CHAP. 322, LAWS OF 1870.**

**AN ACT to authorize corporations to change their names.**

**Corporation may apply for change of its name.**

**SECTION 1.** Any incorporation, incorporated company, society or association organized under the laws of this State, excepting banks, banking associations, trust companies, life, health, accident, marine and fire insurance companies, may apply at any special term of the supreme court sitting in the county in which shall be situated its chief business office, for an order to authorize it to assume another corporate name. (*Thus amended by Laws of 1876, Chap. 280.*)

**Form of petition ; notice of application, how published ; of what facts court must be satisfied.**

§ 2. Such application shall be by petition, which shall set forth the grounds of the application, and shall be verified by the chief officer of the corporation. Notice of such application shall be published for six weeks in the State paper and in a newspaper of every county in which such corporation shall have a business office, or, if it have no business office, of the county in which its principal corporate property is situated, such newspaper to be one of those designated to publish the sessions laws; and it must appear to the satisfaction of the court that such notice has been so published, and that the application is made in pursuance of a resolution of the directors, trustees or other managers of the corporation applying.

**Power of court to make order ; copy of order where to be filed ; same to be published.**

§ 3. If the court to which such application is made shall be satisfied, by such petition, so verified, or by other evidence, that there is no reasonable objection to such corporation changing its name, it may make an order authorizing it to assume the proposed new corporate name. A copy of said order shall be filed in the office of the Secretary of State and with the county clerk of every county in which said corporation has a business office, or, if it have no business office, of the county in which its principal corporate property is situated, and be published at least once in each week for four weeks in some newspaper in every county where such corporation has a business office, or, if it have no business office, in the county in which its principal corporate property is situated, such newspaper to be designated by the court.

**Change of corporate name when to take effect.**

§ 4. When the requirements of this act shall have been complied with, the corporation applying for a change of name may, from and after the day specified in the order of the court, be known by and use the new corporate name designated in the order of the court.

**Change of name not to affect pending suits, etc. ; obligations and actions how enforced or continued.**

§ 5. No suit or legal proceeding commenced by or in behalf of or against any corporation shall abate by reason of a change of its corporate name made as herein authorized. Such change of the corporate name of the said corporation or company shall in no way affect the rights or liabilities of said corporation or company. All obligations of said company or corporation may be enforced against said corporation or company in the changed name, and all actions and proceedings commenced and pending against said corporation or company at the time said corporate name is changed shall be continued in the name in which said action or proceedings were commenced, or the court may, on the application of either party, allow the action or proceeding to be continued in the corporate name to which said corporation or company has been changed.

**CHAP. 430, LAWS OF 1874.**

**AN ACT to facilitate the reorganization of railroads sold under mortgage, and providing for the formation of new companies in such cases.**

**Purchasers to become a body politic and corporate by making and filing certificate.**

**SECTION 1.** In case the railroad and property connected therewith, and the rights,

privileges and franchises of any corporation, except a street railroad company, created under the general railroad law of this State, or existing under any special or general act or acts of the Legislature thereof, shall be sold under or pursuant to the judgment or decree of any court of competent jurisdiction made or given to execute the provisions or enforce the lien of any deed or deeds of trust, or mortgage theretofore executed by any such company, the purchasers of such railroad property or franchises, and such persons as they may associate with themselves, their grantees or assignees, or a majority of them, may become a body politic or corporate, and as such may take, hold and possess the title and property included in said sale, and shall have all the franchises, rights, powers, privileges and immunities which were possessed before such sale by the corporation whose property shall have been sold as aforesaid, by and upon filing in the office of the Secretary of State a certificate, duly executed under their hands and seals and acknowledged before an officer authorized to take the acknowledgment of deeds, in which certificate the said persons shall describe, by name and reference to the act or acts of the Legislature of this State under which it was organized, the corporation whose property and franchises they shall have acquired as aforesaid, and also the court by authority of which such sale shall have been made, giving the date of the judgment or decree thereof, authorizing or directing the same, together with a brief description of the property sold, and shall also set forth the following particulars:

**Name of corporation.**

1. The name of the new corporation intended to be formed by the filing of such certificate.

**Capital stock.**

2. The maximum amount of its capital stock and the number of shares into which the same is to be divided, specifying how much of the same shall be common, and how much preferred stock, and the classes thereof, and the rights pertaining to each class.

**Number of directors.**

3. The number of directors by whom the affairs of the said new corporation are to be managed, and the names and residences of the persons selected to act as directors for the first year after its organization.

**Plans and agreements; effect of certificate; copy thereof, evidence; certificate to contain whole plan.**

4. Any plan or agreement which may have been entered into pursuant to the second section hereof.

And upon the due execution of such certificate, and the filing of the same in the office of the Secretary of State, the persons executing such certificate, and who shall have acquired the title to the property and franchises sold as aforesaid, their associates, successors and assigns, shall become and be a body politic and corporate, by the name specified in such certificate, and shall become and be vested with, and entitled to exercise and enjoy all the rights, privileges and franchises which at the time of such sale belonged to or were vested in the corporation which last owned the property so sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the acts amendatory thereof, except so far as said provisions, duties and liabilities may be inconsistent herewith, and with the last-named rights, privileges or franchises; and a copy of the said certificate, certified by the Secretary of State or his deputy, shall be presumptive evidence of the due formation of the new corporation therein mentioned, provided always that a majority of said persons shall be citizens and residents of this State. In the certificate so to be filed shall be inserted the whole of the plan or agreement in the next section referred to. And such plan, agreement and articles may regulate voting by and on the part of the holders of the preferred and common stock of the said company, and may also allow, provide for and regulate voting at and in said meetings, and also for directors, by and on the part of the holders and owners of any or all of the bonds of the company foreclosed, or of the bonds issued or to be issued and payable by the new company, pursuant to any such plan, agreement or articles; such right of voting by bondholders to be in such manner, for such period or periods, and upon such conditions as said articles may authorize and declare; but such articles shall contain suitable provisions

for such bondholders voting by proxy. Said articles shall not be inconsistent with the constitution or laws of this State, and shall be binding upon the company until changed as therein provided for, or until otherwise provided by law. (*Thus amended, Laws 1876, chap. 446.*)

**When new corporation may issue bonds and stock; when it may compromise, etc., debt of former company; preferences in dividends.**

§2. In case the persons organizing, or whose duty it may be to organize the new corporation to be formed as provided in the first section of this act, shall have acquired title to the railroad property and franchises which may have been sold as in said section mentioned, pursuant to any plan or agreement for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the company owning, or which last owned, such property and franchises at the time of any such sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, as provided for in said section, the said new corporation shall be authorized and shall have the power to issue its bonds and stock in conformity with the provisions of such plan or agreement; and the said new corporation may, at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former company, upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization aforesaid; and for the purposes of such plans and of such settlements, the said new corporation may and shall be authorized to establish preferences in respect to the payment of dividends in favor of any portion of its said capital stock, and to divide its said stock into classes; provided, nevertheless, that nothing herein contained shall be held to authorize the issue of capital stock by the said new company to any aggregate amount exceeding the maximum amount of such stock mentioned in the certificate of incorporation.

**Sale of property.**

1. And it shall be lawful for the Supreme Court to direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in the case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any mortgage or mortgages or deeds aforesaid.

**No interference with receiver by sale or formation of new company.**

2. Neither the said sale nor the formation of such corporation shall interfere with the authority or possession of any receiver of the property and franchises aforesaid, but he shall remain liable to be removed or discharged at such time as the court may deem proper.

**Suits against receiver.**

3. No suit or proceeding shall be commenced against said receiver (unless founded on willful misconduct or fraud in his trust), except such as shall be commenced before the expiration of sixty days from the time of the discharge of such receiver; but it is further provided, that after the expiration of said sixty days, the corporation that shall own or operate said railroad shall be liable in any action that may be commenced against such company, and founded on any act or omission of such receiver (for which he may not as aforesaid be sued), and to the same extent as said receiver, but for this act, would be or remain liable, or to the same extent that such corporation would be, had it done or omitted the acts complained of against such receiver. (*Thus amended, Laws of 1876, chap. 446.*)

**Stockholder of company has the right to assent to plans of readjustment.**

§3. Every stockholder in any company, the franchises and property whereof shall have been sold as aforesaid, shall have the right to assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property, shall have been purchased as aforesaid, at any time within six months after the organization of said new company, and by complying with the terms and conditions of such plan become entitled to his *pro rata* benefits therein according to its terms.

**Railroad commissioners of any city, etc., may assent to plan of reorganization; issue of stock in exchange for stock of former company; may assign, etc., stock held by them.**

§4. Full power is hereby given to the railroad commissioners, corporate authorities or

proper officials of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, as mentioned in the first section of this act, to assent to any plan of agreement of reorganization which provides for the formation of a new company, in conformity with this act, and the issue of stock therein to the proper authorities or officials of said cities, towns or villages, in exchange for the stock of the old or former company by them respectively held at par, subject to the foregoing provisions of this act. And such railroad commissioners, corporate authorities or other proper officials, may assign, transfer or surrender the stock so held by them in the manner required by any such plan, and accept in lieu thereof the stock issued by said new corporation in conformity therewith.

#### CHAP. 505, LAWS OF 1879.

**AN ACT** to facilitate the foreclosure of mortgages made by consolidated railroad companies of railroads lying partly within and partly without this State.

**Foreclosure of mortgages made by consolidated railroads lying only partly in the State.**

**SECTION 1.** Whenever a railroad corporation, whose line of road lies partly in this State and partly in another State or States, which corporation shall have been created by the consolidation of a railroad corporation of this State, with a railroad corporation or corporations of another State or States, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the State or States in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the Supreme Court of this State in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this State, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had had been made by a court of competent jurisdiction of this State. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the said Supreme Court, for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other State, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this State, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be, appointed by such court of competent jurisdiction of the State in which the greater part of the line of railroad is situated, such receiver may perform, within this State, the duties of his office not inconsistent with the laws of this State, and may sue and be sued in the courts of this State.

**Powers of corporations of other States subject to certain duties and liabilities; proviso.**

**§2.** A corporation created under the laws of the State in which the greater part of the line of such railroad may be situated, for the purpose of taking title to and operating the entire line of railroad so sold, as provided in the preceding section, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved, as therein provided, may hold, possess, and operate that part of the line of such railroad lying in this State, and shall have all the rights and franchises theretofore possessed by the corporation, executing the mortgage under which such judgment or decree and sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this State, and shall be subject to the duties and liabilities to which such corporation was by the laws of this State subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this State; provided that an exemplified copy of the charter, certificate of incorporation or articles of association

under and by virtue of which such corporation is created, and of the judgment or decree under which said entire line of railroad was sold, and a certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, shall be filed in the office of the Secretary of State for this State.

**CHAP. 5, LAWS OF 1880.**

**AN ACT** to authorize the president, treasurer and secretary of any railroad company to issue certificates of stock in certain cases, after a foreclosure and sale of the property and franchises of the corporation.

**When president, etc., to issue certificates of stock.**

**SECTION 1.** The president, treasurer, and secretary of any railroad company organized under the laws of this State, or either of them, whose property and franchises have been sold under a foreclosure of any mortgage given to secure the payment of any bond or bonds issued by such company, are hereby authorized and required after such foreclosure and sale upon demand of any individual, or any duly authorized officers of any corporation, town, county or city, entitled thereto, to issue certificates of stock in said railroad company, provided, when any such individual or the proper officers of any corporation, county, town, or city duly authorized so to do have subscribed to the stock of such railroad company, and paid the amount of such subscription to the officers of such railroad company, either in money or bonds before the date of such foreclosure and sale, and a certificate of stock through the neglect of such railroad company or of any individual or the officers of any town, county, city or corporation has not been issued and delivered to said subscriber or the officers of any corporation, town, county or city for the amount of money or both so subscribed and paid.

**Effect of certificate.**

§ 2. All certificates of stock issued under the authority of the first section of this act shall have all the force and effect, and shall give the holder all the rights which would pertain thereto as if said stock had been issued at the date and payment of the subscription thereto.

**CHAP. 155, LAWS OF 1880.**

**AN ACT** to facilitate the carrying out of plans and agreements for the reorganization of railroads.

**When stock insufficient, how company may increase same; State Engineer and Surveyor to approve.**

**SECTION 1.** Whenever the maximum amount of capital stock mentioned in the certificate of incorporation of any railroad or railway company on file in the office of the Secretary of State shall be insufficient to carry out any plan or agreement of reorganization set forth in such certificate of incorporation, it shall be lawful for the directors, or a majority of the directors, of said company to file an additional certificate with the Secretary of State, which shall set forth the fact of such insufficiency, and the additional amount of capital stock required to carry out such plan or agreement of reorganization, and thereupon, with the approval of the State Engineer and Surveyor, said company shall be authorized to issue such capital stock as fully as if the same had been mentioned or set forth in the original certificate of incorporation. Said additional certificate shall be filed in the office of the Secretary of State within two months after the passage of this act.

**CHAP. 502, LAWS OF 1883.**

**AN ACT** to authorize stockholders of railroad and plankroad companies to make payments upon mortgages in process of foreclosure against such companies, and thereupon to become interested in said mortgages.

**Default in payment of principal and interest of bonds.**

**SECTION 1.** Whenever default shall be made by any railroad or plankroad company in the payment of principal or interest of any bonds of such company, which are secured by a mortgage of the property of such company, it shall be lawful for each and every stockholder of said company, at any time during the process of such foreclosure, to pay to the mortgagees named in such mortgage, for the use and benefit of the holder and

holders of such bonds, such a proportion of the sum due and of the sum secured to be paid by the whole of the bonds secured by such mortgage as such stockholder's stock shall bear to the whole stock of said company; and on so paying, such stockholder shall, to the extent of such payment, become and be interested in said mortgage and protected thereby.

#### **Foreclosure of mortgage.**

§ 2. In case of the foreclosure of any mortgage given by any railroad or plankroad company to secure the payment of any bond of such company, any stockholder of such company shall, for the period of six months after the sale under such foreclosure, have the right on paying to the purchaser or purchasers at or under such sale, or to the mortgagees named in such mortgage, for the use and benefit of said purchaser or purchasers, a sum equal to such proportion of the price paid on such sale, and the costs and expenses thereof, as such stockholder's stock in said company shall bear to the whole capital stock of said company; and on so paying, such stockholder shall be entitled to have the same relative amount of stock or interest in said railroad or plankroad company and its road, franchises and other property.

### **CHAP. 917, LAWS OF 1869.**

**AN ACT authorizing the consolidation of certain railroad companies.**

#### **Consolidation of railroad companies owning continuous lines.**

SECTION 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within, or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States whenever the railroads or branches or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry. (*Thus amended, Laws of 1881, chap. 685.*)

#### **Conditions.**

§ 2. Said consolidation shall be made under the conditions, provisions and restrictions, and with the powers hereinafter in this act mentioned and contained, that is to say:

#### **Directors may enter into joint agreement; amount of capital stock.**

1. The directors of the companies proposing to consolidate may enter into a joint agreement, under the corporate seal of each company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization, and the consolidation of said companies or railroads. But in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, as the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

#### **Agreement to be submitted to stockholders; vote to be by ballot; two-thirds vote required; certified copy evidence.**

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose

names the capital stock of such company stands on the books thereof, and delivered to such persons respectively, or sent to them by mail when their post office address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice published daily for at least four weeks in some newspaper printed in the city, town or county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretaries of the respective companies, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and be taken to be the agreement and act of consolidation of the said companies; and a copy of the said agreement and act of consolidation duly certified by the Secretary of State, under his official seal, shall be evidence in all courts and places of the existence of said new corporation, and that the foregoing provisions of this act have been fully observed and complied with. (*Thus amended, Laws of 1880, chap. 94.*)

**Corporations to be taken as one, on filing agreement of consolidation; rates of fare upon New York Central railroad; act not to apply to street railroads.**

§ 3. Upon the making and perfecting such agreement and act of consolidation as hereinbefore provided, and filing the same or a copy thereof in the office of the Secretary of State as aforesaid, the said corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, but such act of consolidation shall not release such new corporation from any of the restrictions, disabilities or duties of the several corporations so consolidated. But nothing in this act contained shall allow any rate of fare for way passengers greater than two cents per mile, to be charged or taken over the track or tracks of that railroad, now known as the New York Central Railroad Company, and the rate of fare for way passengers over the track or tracks now operated by the said New York Central Railroad Company shall continue to be two cents per mile and no more, wherever it is now restricted to that rate of fare. But nothing herein contained shall apply to street railroads.

**New corporation succeeds to rights, property, claims, franchises, etc., of roads consolidated.**

§ 4. Upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, exemptions and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of said corporations, as well as all stock subscriptions and other things in action belonging to either of said corporations, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way and every other interest shall be as effectually the property of the new corporation as they were of the former corporations parties to the said agreement and act, and the title to all real estate, taken by deed or otherwise, under the laws of this State, vested in either of such corporations, parties to said agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act; or any thing done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation.

**Rights of creditors, and liens not to be impaired; proviso as to existing suits, actions, etc.; suits, how brought against new corporations.**

§ 5. The rights of all creditors of, and all liens upon, the property of either of said corporations, parties to said agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of said corporations, except mortgages, shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if said debts or liabilities had been incurred or contracted by it. No suit, action or other proceeding now pending before any court or tribunal, in which either of said railroad companies is a party, shall be deemed to have abated or been discontinued by the agreement and act of consolidation as aforesaid,



but the same may be conducted in the name of the existing corporations to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in the courts of this State, for all causes of action, in the same manner as against other railroad corporations therein.

**Assessment of real and personal property of new corporation in this State.**

§ 6. The real estate of such new corporation, situate within this State, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this State, as the number of miles of its railroad situate in this State bears to the number of miles of its railroad situate in the other State or States.

**Proviso as to rate of passenger fare; act not to apply to street railroads; contract of Buffalo and State Line railroad not to be impaired.**

§ 7. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads; and nothing in this act contained shall be so construed as to affect or impair in any way the validity of any contract now existing between the Buffalo and State Line Railroad Company and the New York and Erie Railroad Company.

**General Railroad Act; how far to apply.**

§ 8. All the provisions of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the several acts amendatory thereof or in addition thereto, shall be applicable to the new corporation so to be formed as aforesaid, so far as the same are now applicable to the railroad companies of this State which may be consolidated with any other company or companies by virtue of this act.

**Parallel and competing lines not authorized to consolidate.**

§ 9. No companies or corporations of this State whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

**CHAP. 256, LAWS OF 1875.**

**AN ACT** relating to the consolidation of certain railroad companies.

**Consolidation with Pennsylvania companies.**

SECTION 1. Any railroad company organized under the laws of this State may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any railroad company or companies organized under the laws of the State of Pennsylvania, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad.

**Consolidation, how effected.**

§ 2. Such consolidation shall be effected in the manner provided for by an act entitled "An act to authorize the consolidation of certain railroad companies," passed May 20, 1882, and also subject to the laws of the State of Pennsylvania.

**Stock of municipal corporation, how represented.**

§ 3. At any meeting of the stockholders of any such company or corporation to consider any agreement or proposition to consolidate, the commissioners or other officer of any municipal corporation holding or having charge of any of the capital stock of such railroad company or corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

**CHAPTER 685, LAWS OF 1881.**

**AN ACT** to amend chapter 917 of the Laws of 1869, entitled "An act authorizing the consolidation of certain railroad companies."

**When lawful for railroad companies to merge and consolidate.**

SECTION 1. Section one of chapter 917 of the Laws of 1869, entitled "An act authorizing

the consolidation of certain railroad companies," is hereby amended so as to read as follows:

§ 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States, whenever the railroads or branches, or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry.

(Chapter 415, Laws of 1890, authorizing extension of road so as to cross Hudson river over any bridge outside of New York and Kings, is omitted.)

#### CHAP. 606, LAWS OF 1875.

**AN ACT** further to provide for the construction and operation of a steam railway or railways in counties of the State.

**Application for railway commissioners; appointment of; railways in cities.**

SECTION 1. Whenever it shall appear, by the application of fifty reputable householders and tax payers of any county in this State, verified upon oath before a justice of the Supreme Court, that there is need in such county of a steam railway or railways for the transportation of passengers, mails or freight, the board of supervisors of said county may, within thirty days after presentation to them of such application, duly verified as aforesaid, appoint five commissioners, who shall be residents of the said county, and who shall have full power and authority to do and provide all that they are hereinafter directed to do and provide, and a certificate of whose appointment, signed by the chairman and clerk of such board, shall be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county. But whenever any such proposed railway shall be wholly within the limits of any city in the State, then such application shall be made only to the mayor of said city, and such mayor shall appoint such commissioners as aforesaid.

**Commissioners to take oath and give bond.**

§ 2. Within ten days after their appointment, each of said commissioners shall take and subscribe an oath faithfully to perform the duties of his office, the said oath to be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county, and shall give a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful performance of the duties required by this act, which bond shall have two or more sureties, to be approved by a justice of the department of the Supreme Court including such county, and shall be filed in said clerk's office before said commissioner shall assume or perform any of the duties of his office.

**First meeting of commissioners.**

§ 3. Within fifteen days after their appointment, the said commissioners shall meet at some convenient place in such county, and organize themselves as a board with appropriate officers.

**Commissioners to determine upon the necessity of railroads; exception; proviso.**

§ 4. Said commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railway or railways, and if they find such railway or railways to be necessary in such county, they shall, within sixty days after such organization, fix and determine the route or routes for such steam railway or railways, and the said commissioners shall have the exclusive power to locate the route or routes

but the same may be conducted in the name of the existing corporations to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in the courts of this State, for all causes of action, in the same manner as against other railroad corporations therein.

**Assessment of real and personal property of new corporation in this State.**

§ 6. The real estate of such new corporation, situate within this State, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this State, as the number of miles of its railroad situate in this State bears to the number of miles of its railroad situate in the other State or States.

**Proviso as to rate of passenger fare; act not to apply to street railroads; contract of Buffalo and State Line railroad not to be impaired.**

§ 7. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads; and nothing in this act contained shall be so construed as to affect or impair in any way the validity of any contract now existing between the Buffalo and State Line Railroad Company and the New York and Erie Railroad Company.

**General Railroad Act; how far to apply.**

§ 8. All the provisions of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1860, and of the several acts amendatory thereof or in addition thereto, shall be applicable to the new corporation so to be formed as aforesaid, so far as the same are now applicable to the railroad companies of this State which may be consolidated with any other company or companies by virtue of this act.

**Parallel and competing lines not authorized to consolidate.**

§ 9. No companies or corporations of this State whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

**CHAP. 256, LAWS OF 1875.**

**AN ACT** relating to the consolidation of certain railroad companies.

**Consolidation with Pennsylvania companies.**

SECTION 1. Any railroad company organized under the laws of this State may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any railroad company or companies organized under the laws of the State of Pennsylvania, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad.

**Consolidation, how effected.**

§ 2. Such consolidation shall be effected in the manner provided for by an act entitled "An act to authorize the consolidation of certain railroad companies," passed May 20, 1869, and also subject to the laws of the State of Pennsylvania.

**Stock of municipal corporation, how represented.**

§ 3. At any meeting of the stockholders of any such company or corporation to consider any agreement or proposition to consolidate, the commissioners or other officer of any municipal corporation holding or having charge of any of the capital stock of such railroad company or corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

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**When lawful for railroad companies to merge and consolidate.**

SECTION 1. Section one of chapter 917 of the Laws of 1869, entitled "An act authorizing

the consolidation of certain railroad companies," is hereby amended so as to read as follows:

§ 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States, whenever the railroads or branches, or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry.

(Chapter 415, Laws of 1880, authorizing extension of road so as to cross Hudson river over any bridge outside of New York and Kings, is omitted.)

#### CHAP. 606, LAWS OF 1875.

AN ACT further to provide for the construction and operation of a steam railway or railways in counties of the State.

**Application for railway commissioners; appointment of; railways in cities.**

SECTION 1. Whenever it shall appear, by the application of fifty reputable householders and tax payers of any county in this State, verified upon oath before a justice of the Supreme Court, that there is need in such county of a steam railway or railways for the transportation of passengers, mails or freight, the board of supervisors of said county may, within thirty days after presentation to them of such application, duly verified as aforesaid, appoint five commissioners, who shall be residents of the said county, and who shall have full power and authority to do and provide all that they are hereinafter directed to do and provide, and a certificate of whose appointment, signed by the chairman and clerk of such board, shall be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county. But whenever any such proposed railway shall be wholly within the limits of any city in the State, then such application shall be made only to the mayor of said city, and such mayor shall appoint such commissioners as aforesaid.

**Commissioners to take oath and give bond.**

§ 2. Within ten days after their appointment, each of said commissioners shall take and subscribe an oath faithfully to perform the duties of his office, the said oath to be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county, and shall give a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful performance of the duties required by this act, which bond shall have two or more sureties, to be approved by a justice of the department of the Supreme Court including such county, and shall be filed in said clerk's office before said commissioner shall assume or perform any of the duties of his office.

**First meeting of commissioners.**

§ 3. Within fifteen days after their appointment, the said commissioners shall meet at some convenient place in such county, and organize themselves as a board with appropriate officers.

**Commissioners to determine upon the necessity of railroads; exception; proviso.**

§ 4. Said commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railway or railways, and if they find such railway or railways to be necessary in such county, they shall, within sixty days after such organization, fix and determine the route or routes for such steam railway or railways, and the said commissioners shall have the exclusive power to locate the route or routes

of such railway or railways over, under, through or across the streets, avenues, places or lands in such county, except Broadway and Fifth avenue below Fifty-ninth street, Fourth avenue and Forty-second street, in the city of New York, and except over, under, through or across those portions of Grand, Classon and Franklin avenues and Downing street, in the city of Brooklyn, lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, and over, under, through or across that portion of Classon avenue, in said city, lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and over, under, through or across that portion of Washington avenue in said city lying between Park and Atlantic avenues, and except over, under, through or across De Bevoise place, Irving place and Leffert's place in said city of Brooklyn; and except such portions of streets and avenues as are already legally authorized for or occupied by an elevated or underground railway, and except such as are contained in public parks or occupied by buildings belonging to such county, or to this State, or to the United States, and except that portion of the city of Buffalo lying between Michigan and Main streets; and to provide for the connection or junction with any other railway or bridge, provided that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners appointed by the General Term of the Supreme Court in the district of the proposed construction, given after a due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners. But nothing herein contained shall prevent the construction of an elevated railway across such excepted streets, places and avenues in the city of Brooklyn at their intersection only with other streets, places and avenues. (*Thus amended, Laws of 1881, chap. 485.*)

See in this connection Laws of 1860, chap. 10; also, Laws of 1879, chap. 529.

#### **Plans of construction.**

§ 5. The said commissioners having, by such public notice as they may deem most proper and effective, under such conditions and with such inducements as to them may seem most expedient, invited the submission of plans for the construction and operation such railway or railways, the said commissioners shall meet at a place and upon a day of in such public notice named, not more than ninety days after their organization and decide upon the plan or plans for the construction of such railway or railways with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances upon the route or routes, and in the locations determined by them.

**Commissioners to determine when railway to be built; rates of fare; appraisal of damages before corporation enters upon street certain moneys to be deposited; additional deposit required; proviso.**

§ 6. The said commissioners shall, within the like period of ninety days after their organization, fix and determine the time within which such railway or railways, or portions of the same, shall be constructed and ready for operation, together with the maximum rates to be paid for transportation and conveyance over such railway or railways, and the hours during which special cars or trains shall be run at reduced rates of fares. The said commissioners shall also, within the like period of ninety days after their organization, fix and determine the amount of the capital stock of the company to be formed for the purpose of constructing, maintaining and operating such railway or railways for public use in the conveyance of persons and property, the number of shares into which such capital stock shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares. \*The said commissioners shall also, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in value of the property bounded on that

\* The following part of section 6 is not applicable to the counties of New York and Westchester. § 5, chap. 303, Laws of 1882.

portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway or railways, to be caused by the construction, maintenance and operation thereof. For the purpose of ascertaining such aggregate pecuniary damage the said commissioners shall view the several parcels of real estate bounded as aforesaid, and shall appraise separately the pecuniary damage arising from the diminution in value of each parcel thereof to be caused as aforesaid, and for the purposes of such appraisal they "shall give notice of the time and place when and where they will meet to hear the owners, or persons interested in the said several parcels of real estate bounded as aforesaid, which notice shall be published for at least ten days consecutively in at least two newspapers published in the county where such railway is to be constructed, and may in their discretion take testimony upon the probable diminution in value of any or all such parcels to be caused as aforesaid, and the aggregate sum of the amount so appraised and determined by said commissioners shall be the aggregate pecuniary damage required to be ascertained and determined by said commissioners as above provided." And no corporation which shall hereafter be organized under this act shall enter upon any street, highway or lane of any city or county of this State, or become vested, either directly or indirectly, whether by implication or otherwise, with any right, privilege or franchise in any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway, or by the board of supervisors, when the road does not lie wholly within the city, a sum of money equal to the amount so ascertained and determined as aforesaid by said commissioners to be the aggregate pecuniary damage to the property, bounded as aforesaid, or shall have secured the payment of such amount by depositing with the said trust company negotiable securities, equivalent at their par and actual value to the aggregate amount aforesaid, and approved either by the county treasurer, or in case the said commissioners shall have been appointed by the mayor of a city, then by the said mayor. And the said corporation shall also at the same time deposit with the said trust company, or with the county treasurer, the sum of \$5,000 in cash, for the payment of the expense of apportioning and distributing the aforesaid fund; and unless such moneys or securities as aforesaid shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or the confirmation by the general term of the Supreme Court of the determination of three commissioners, appointed by said court, as required by the fourth section of this act, and in the case of a company heretofore organized within one year after it shall have obtained the confirmation by the general term of the Supreme Court of the report of three commissioners appointed by said court, in lieu of the consent of property owners or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this act shall have made their report, then and in such case the said corporation shall be deemed not to have accepted the franchises duly granted.

Provided, however, that in all cases where the said commissioners shall fix and determine different periods of time within which different sections of said railway shall be constructed and ready for operation, they shall ascertain, determine and report separately the aggregate pecuniary damage to property bounded upon that portion of said street or streets upon which each of such sections is located; and upon the deposit by said corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections of said railway, said corporation shall immediately be vested with the right and privilege to construct its railway through such section. (*So amended, Laws of 1882, chap. 393.*)

#### **Articles of association, proviso as to forfeiture.**

§ 7. The said commissioners shall prepare appropriate articles of association for the company in the last section mentioned, in which said articles of association shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by said commissioners determined pursuant to sections 4, 5 and 6 of this act, and which further shall provide for the release and forfeiture to the supervisors of the county of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the said commissioners shall thereupon, and within one hundred and

twenty days after their organization as aforesaid, cause a suitable book of subscription to the capital stock of such company to be opened, pursuant to due public notice, at a banking office in such county.

\*Provided, however, that a failure by any corporation heretofore or hereafter organized under this act to complete its railway within the time limited in and by its articles of association shall work a forfeiture of the franchises of such corporation only with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its articles of association, or as to which the time for completion shall not have expired, any thing contained in the articles of association of such corporation to the contrary hereof in any wise notwithstanding. (*Thus amended by Laws of 1882, chap. 393.*)

### **Organization.**

§ 8. Whenever the whole capital stock of such company, or an amount of such capital stock proportioned to the part of such railway or railways directed by said commissioners to be first constructed, shall have been subscribed by not less than twenty-five persons, and the fixed percentage of such subscriptions shall have been paid in cash, the said commissioners shall, by written or printed notice of ten days, served personally, or by mail, call a meeting of such subscribers for organization. At such meeting or at any subsequent one to which the same may be adjourned, a majority in number and amount of said subscribers may elect persons, of a number to be theretofore determined by said commissioners, who shall be directors for one year of the corporation formed for the purpose of constructing and operating said railway or railways.

### **Commissioners to deliver certificate; affidavit of directors; filing of certificate; corporation, when perfected.**

§ 9. Within ten days after the election of said directors, said commissioners shall deliver to said directors a certificate in duplicate, verified by the oath of three commissioners before a justice of the Supreme Court, setting forth the said articles of association and the organization of the company for the purposes in this act mentioned and provided for; and within five days after the reception by them of such certificate, three of the directors so elected shall make affidavit, in duplicate, that the full amount of stock has been subscribed in good faith, and the prescribed percentage paid in cash thereon, and that it is intended, in good faith, to construct, maintain and operate the railway or railways in such articles of association mentioned, and the said directors shall file said certificates and articles in the office of the Secretary of State, and a duplicate of the same in the office of the clerk of the county wherein such railway or railways shall be located, and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the duties and restrictions of corporations. A copy of such certificate and affidavit, certified to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

### **Directors' books, when to be exhibited.**

§ 10. Said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. Every corporation formed under this act shall be subject to the regulations concerning the election of directors of moneyed corporations, contained in article second of the second title of the eighteenth chapter of the first part of the Revised Statutes. The inspectors of the first

\*The following proviso is not applicable to the counties of New York and Westchester. § 5, chap. 385 Laws of 1882.



election of directors shall be appointed by the commissioners. No person shall be a director unless he shall be a stockholder owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

#### **Payment of subscriptions to stock.**

§ 11. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, postage prepaid, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

#### **Liability of stockholder, laborers and servants, other than contractors; when suit to be brought.**

§ 12. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have \* have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself.

#### **Stock deemed personal estate; how and when transferable.**

§ 13. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

#### **Increase of capital stock.**

§ 14. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purposes aforesaid. Such increase must be

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\* So in original.

sanctioned by a vote in person or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed, to him at the post-office nearest his usual place of residence, in the post-office, postage prepaid, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

#### **Stock held in trust.**

§ 15. No person holding stock in any such company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

#### **Liability to laborers.**

§ 16. As often as any contractor, for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney; and shall be served on an engineer, agent or superintendent employed by such company having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any company under the provisions of this section unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

#### **Real estate.**

§ 17. Every such corporation shall have the right to acquire and hold such real estate or interest therein as may be necessary to enable them to construct, maintain and operate the said railway or railways, and such as may be necessary for stations, depots, engine-houses, car-houses and machine shops; and, in case any such corporation cannot agree with the owner or owners of any such real estate, or of any interest therein, it shall have the right to acquire title to the same in the manner and by the special proceedings prescribed in this act.

#### **Title, how acquired; petition; what to contain; how and when served.**

§ 18. For the purpose of acquiring such title, the said company may present a petition praying for the appointment of commissioners of appraisal to the Supreme Court, at any general or special term thereof, held in the judicial district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a

description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been, in good faith, subscribed as required by this act; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can, by reasonable diligence, be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate; and, if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the Supreme Court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

#### **Commissioners to be appointed.**

§ 19. On presenting such petition to the Supreme Court as aforesaid, with proof of service of a copy thereof, and notice as aforesaid, all persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of five disinterested and competent persons, who reside in the county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of such commissioners.

#### **Proceedings of commissioners.**

§ 20. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas, administer oaths to witnesses, and any three of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of them, all being present and acting, shall ascertain and determine the compensation which ought justly to be made by the company to the party or parties owning or interested in the real estate appraised by them; and in determining the amount of such compensation, they shall not make an allowance or deduction on account of any real or supposed benefits which the party in interest may derive from the construction of the proposed railroad. They, or a majority of them, shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared, for costs, expenses and counsel fees. They shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$3 for their expenses and services for each day they are engaged in the performance of their duties, to be paid by the company.

**Confirmation of report; proceedings thereon.**

§ 21. On such report being made by said commissioners, the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

**Order to be recorded; company to have title on payment of award, etc.; appeals.**

§ 22. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated; and thereupon, and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses, and counsel fees as aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purpose of its incorporation, during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate, and interest in such real estate, during the corporate existence of the company as aforesaid. If the company shall neglect to have such order recorded, and to make the payment or deposit as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may, at his election, cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. All real estate acquired by any company under and pursuant to the provisions of this act, for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the twenty-first section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court, from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court, at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal, before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of compensation to be made by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid; and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised; and when the same is made by others than the company, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession.

**Proceedings where there are conflicting claimants.**

§ 23. If there are adverse and conflicting claimants to the money or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made. The court shall appoint some competent attorney to appear for, and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an

attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

**Where title is defective.**

§ 24. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security, as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

**When title to real estate is vested in trustee.**

§ 25. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot, or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

**Powers.**

§ 26. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

2. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

3. To cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation

to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided in this act in respect to acquiring title to real estate.

4. To take and convey persons and property on their railroad by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said commissioners, a railway or railways upon the route or routes and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said commissioners and for operating the same; except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway now in actual operation at the grade thereof, or the erection of piers or supports for any elevated railway upon a railway track now actually in use in any street or avenue; and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surface of said streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and shall avoid any interference with or change in the water-mains, or in the sewers or lamp-posts, except such changes as may be made with the concurrence of the proper department or authority, and in all cases the use of the streets, avenues, places and lands designated by the said commissioners, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared, to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

#### **Employees to wear badge; effect of not wearing badge.**

§ 27. Every conductor, baggage-master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant, without such badge, shall have authority to meddle or interfere with any passenger, his baggage or property.

#### **To convey mails.**

§ 28. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation,

shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.

**Ejection of passengers.**

§ 29. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping-place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

**To run trains at regular times, and to furnish sufficient accommodation.**

§ 30. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodation for the transportation of all such passengers and property, as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junctions of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved, in an action for damages, for any neglect or refusal in the premises.

**Intoxication of employees.**

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

**Willful injury to property.**

§ 32. If any person or persons shall willfully do, or cause to be done, any acts or act whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

**Penalties, how recovered.**

§ 33. All penalties imposed by this act may be sued for in the name of the people of the State of New York, and if such penalty be for a sum not exceeding \$100, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

**Legislature may dissolve company.**

§ 34. The Legislature may, at any time, annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

**Where route crosses horse railroad track.**

§ 35. Whenever the route selected by said commissioners for the construction of said railway shall intersect, cross or coincide with any horse railway track occupying the



surface of said streets or avenues, the said railway corporation is hereby authorized to remove, for the purpose of constructing the said work, the tracks of said horse railways; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of said railway, where such removals or changes have been made, the same shall be restored, as near as may be, to the condition in which they were previous to the construction of said railroad. All such removals and restorations shall be made at the proper cost and charges of the said corporation. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway.

#### **Where route coincides with another route; elevated railways.**

§ 36. Whenever the route or routes determined upon by said commissioners coincide with the route or routes covered by the charter of an existing corporation formed for the purpose provided for by this act, provided that said corporation has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time prescribed by its charter, such corporation shall have the like power to construct and operate such railway or railways, upon fulfillment of the requirements and conditions imposed by said commissioners as a corporation specially formed under this act; and the said commissioners may fix and determine the route or routes by which any elevated steam railway or railways now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries; upon fulfillment by such elevated steam railway company, so far as it relates to such connection, of such of the requirements and conditions imposed by said commissioners under section 4 of this act, as are necessary to be fulfilled in such cases, under section 18 of article 3 of the Constitution of this State, and such connecting elevated railway shall in such case possess all the powers conferred by section 26 of this act; and when any connecting route or routes shall be so designated, such elevated railway company may construct such connection, with all the rights, and with like effect, as though the same had been a part of the original route or such railway.

#### **Commissioners to transfer plans, etc., to corporation.**

§ 37. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the said commissioners shall transfer and deliver to the said corporation all plans, specifications, drawings, maps, books and papers in their possession. And the said commissioners shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this act, after deducting therefrom the necessary expenses incurred by said commissioners and the amounts due or to accrue to them for their salaries.

#### **Pay of commissioners.**

§ 38. Each of said commissioners shall be paid for his services at the rate of \$10 per day for each day of actual service as such commissioner, to be paid by such corporation; but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the said commissioners shall receive no salary, and shall cause to be returned to the subscribers for said stock the amount paid in by them, after deducting therefrom the necessary expenses incurred by said commissioners; provided, however, that the time, if any, unavoidably consumed by the pending of legal proceedings shall not be deemed a part of any period or time limited in this act.

#### **Commissioners; relating to.**

§ 39. A majority of the said commissioners shall be deemed and considered sufficient for the transaction of any business, or for the exercise of any of the duties, powers or functions hereby conferred or enjoined upon them. Any of said commissioners may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity of being heard in defense; and no

commissioner thus removed shall be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any of the said commissioners, the vacancy shall be filled within thirty days from such death, resignation or removal by the power appointing him, and a certificate of such appointment shall be filed as aforesaid. And the terms of office of the said commissioners shall determine and expire with the performance of their functions as herein prescribed.

#### Limitations of act.

§ 40. This act shall not be construed to repeal or in any manner to effect chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations and to regulate the same," or the several acts amendatory thereof or supplementary thereto. None of the provisions of this act shall apply to any railroad company organized under any general or special law of this State, for the purpose of constructing or operating a steam railroad upon the surface of the ground, nor to the operation or management of any such railroad heretofore constructed.

#### Other Limitations.

§ 41. It shall not be lawful for any company organized under the provisions of this act, or under any other act heretofore passed, to construct a steam railway upon St. Nicholas avenue, in the city of New York, or those streets or avenues in said city commonly known as boulevards, except to cross the same, under such regulations as shall be imposed by the commissioners provided for by this act, and every such company shall be bound by the restrictions and limitations, as to its route and as to its mode of construction, which shall be established by the commissioners appointed under the acts from which its powers were derived, as far as such restrictions and limitations are consistent with the provisions of this act. The provisions of this section shall not be deemed to apply to any existing horse street railway heretofore authorized to be constructed.

As to certain streets in New York city, see chap. 179, Laws of 1887.

#### Proceedings for the apportionment of damages.

\* § 42. At any time not less than two years nor more than three years after the completion and operation of said railway or railways, any owner of, or party having or claimed to have any estate or interest in any of the property bounded upon that portion of any street or highway upon which such railway shall have been constructed, may petition the Supreme Court at any general term thereof, held in the judicial district in which such railway shall be located, for the appointment of commissioners to apportion among the persons entitled thereto, under the provisions of this act, the moneys deposited or secured for the payment of pecuniary damages under the sixth section thereof. Such petition shall be signed and verified according to the rules and practice of such court, and shall contain a description of the property of such petitioner, together with a statement in detail of damages which he may claim to have sustained. Upon the presentation of such petition, the court shall make an order for the service of the same, and of notice of the time and place of an application thereupon for the appointment of commissioners, by the publication of such petition and notice in not less than two newspapers published in the county in which the said railway is located, and not less than once a week for at least three months from the date of the first publication. (*Thus amended, Laws of 1882, chap. 393.*)

#### Ibid.

§ 43. At the time and place named in the said notice so published as above provided, and after hearing all parties appearing pursuant to such notice, the said court shall make an order for the appointment of three disinterested and competent persons, who shall be residents and freeholders in the county in which said railway is located, as commissioners to apportion among the persons entitled thereto, under the provisions of this act, the amount deposited as required by the sixth section hereof. (*Added by Laws of 1882, chap. 393.*)

\* Sections 42 to 51 inclusive, are not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

corporation and commission, except so far as inconsistent with this section, and after a commission shall have been appointed under this section to ascertain, estimate and fix damages as hereinbefore provided, the corporation which made the application therefor may proceed without prejudice to obtain such other consent or authority as it may require, and the proceedings had under the authority given by this section may be presented in aid of any application it may make. (*Added by Laws of 1882, chap. 393.*)

(None of the provisions of this act, to wit, chap. 393, Laws of 1882, shall apply to the counties of New York, Kings, and Westchester, and nothing herein contained shall be deemed to affect existing provisions of law as to the acquisitions of the title to real estate for railroad purposes. § 5, chap. 393, Laws of 1882, *as amended, chap. 551, Laws of 1886.*)

#### CHAP. 485, LAWS of 1881.

AN ACT to amend and supplementary to chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State," as amended by chapter 417 of the Laws of 1880.

(Section 1 amends Laws of 1875, chap. 606, § 4. See page 375 hereof.)

##### Route in case of exempted streets.

§ 2. Wherever any street or part of a street, by this act exempted from the provisions of the acts hereby amended, has, by commissioners appointed by the mayor as in said amended acts provided, been designated or determined upon, as a portion of the route of a steam railway, and a corporation has been formed under said acts to construct a railway over or on such exempted streets, the said commissioners shall have the power to fix, determine and locate a route for the railway of such corporation over, under, through or across the streets, avenues, places or lands not exempted, in the city where such exempted street is located, as may by such commissioners be deemed to be necessary or proper on account of such street having been exempted as aforesaid, but in the same general direction as such exempted street. Nothing in this act contained shall affect any rights or proceedings of such corporation in or to the remaining portion of its route, and all such proceedings may be continued, and such commissioners may strike from the route of such corporation all portions thereof which they deem have been rendered inappropriate or inapplicable by this act. The term street in this section shall be deemed to include avenue or place.

##### Plans; right to build railways.

§ 3. The said commissioners shall also have the power, at the same time, to fix the plan or plans for the railway to be built upon the route by them fixed as herein provided, but such plans shall be of the same general character as those by them theretofore for the railway of such company provided, and they shall certify and verify by affidavit their proceedings had under this and the preceding section, and file such certificate and affidavit in the office of the Secretary of State with and as a part of the articles of incorporation of such corporation, theretofore filed, and a copy of such certificate and affidavit, certified to be a copy by the Secretary of State or his deputy, shall be presumptive evidence of the facts therein stated. Such corporation shall have the right to build and operate its railway upon the route fixed therefor (as in this and the preceding section provided) subject to the provisions and requirements contained in the section amended by the first section of this act, and all the provisions of the acts by this act amended, not inconsistent herewith, shall apply to the route fixed as in this and the preceding section provided, and the route under such sections fixed and the portion remaining of the route originally fixed shall be and be deemed to be the route for the railway of such corporation.

**CHAP. 267, LAWS OF 1880.**

**AN ACT** authorizing individuals, joint-stock associations or corporations engaged in the manufacture of railroad cars to lay down and maintain railroad tracks connecting their manufacturing establishments with existing railroads.

**May lay down and maintain railroad tracks; proviso.**

**SECTION 1.** Any individual, joint-stock association or corporation now or hereafter engaged in the manufacture of railroad cars in this State may lay down and maintain such railroad tracks, not exceeding one mile in length, as shall be necessary to connect such manufacturing establishment with the tracks of any railroad now or hereafter operated in this State; provided they shall obtain the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

**Limitation of act.**

§ 2. The provisions of this act shall not apply to the counties of New York and Kings.

**CHAP. 133, LAWS OF 1847.**

**AN ACT** authorizing the incorporation of rural cemetery associations.

\* \* \* \* \*  
**No street, road, avenue or thoroughfare to be laid out through a cemetery.**

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessments, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

**CHAP. 62, LAWS OF 1853.**

**AN ACT** to regulate the construction of roads and streets across railroad tracks.

**Laying out streets or highways across railroad tracks.**

**SECTION 1.** It shall be lawful for the authorities of any city, village or town in this State, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually open for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

**Railroad corporations to cause street laid out across their track to be taken at most convenient place for public travel.**

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose; and all the provisions of the act, passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

**Penalty for neglect or refusal.**

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of \$20 for every subsequent day's neglect or refusal, to be recovered by the officers, laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

**CHAP. 392, LAWS OF 1875.**

**AN ACT for the better security of railroad employees for labor performed.  
Lien for labor upon rolling stock, track, etc.**

**SECTION 1.** Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, rolling stock and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

**When notice to be filed; to be entered by county clerk on "lien docket;" fee.**

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice, in writing, with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing such lien, and said notice, when so filed, shall thereafter operate as an incumbrance upon said property.

**Value of labor to be proved on trial.**

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

**Lien, how enforced.**

§ 4. Any laborer performing any work, or assignee thereof, may, after such labor is performed, and the service of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

**Lien to continue one year.**

§ 5. Every lien created under the provisions of this act shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

**Priority of liens.**

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

**Liens, how discharged.**

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or

2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

3. By an entry of the county clerk, made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

**Personal liability of stockholders; notice; time for commencing action.**

18. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days' service, or less than ninety days' service, performed for such corporation, but shall not be liable to any action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days' service, or less than ninety days' service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

**CHAPTER 376, LAWS OF 1885.**

AN ACT to provide for the payment of wages to employees, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

**Wages of employees to be preferred.**

SECTION 1. Where a receiver of a corporation created or organized under the laws of this State and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employees, operatives and laborers thereof shall be preferred to every other debt or claim against such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

**CHAP. 529, LAWS OF 1870.**

AN ACT in relation to mechanics' liens.

**Provisions of lien law extended to railroad bridges and trestle work.**

SECTION 1. The provisions of the laws relating to mechanics' liens heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced previous to the passage of this act.

**CHAP. 63, LAWS OF 1887.**

AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employers and employees, and to authorize the creation of a State Board of Mediation and Arbitration.

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**Act applicable to all corporations.**

113. Whenever the term "employer" or "employers" is used in this act, it shall be held to include "firm," "joint-stock association," "company," or "corporation," as fully as if each of the last-named terms was expressed in each place.

**CHAP. 432, LAWS OF 1873.**

**AN ACT** to authorize the use of improved motive power on railroads in any city or county of this State.

**Mayor and common council, etc., may allow use of improved motive power on street railroads.**

**SECTION 1.** The mayor and common council of any city, the board of trustees of any village, and as to streets or roads outside of any such city or village, the board of supervisors of any county of this State are hereby authorized to permit the use of any improved motive power or motor, for the traction or propelling of cars on any city or street railroad which is or may be constructed and operated by horse power, within their respective jurisdiction, such permission to be subject to such restrictions, regulations and conditions as the said local authorities may impose, and subject to revocation at any time by the authority granting the same, by a two-third vote of its members.

**Increase of fare not authorized.**

§ 2. Nothing contained in this act shall authorize an increase of the rate of fare, nor allow the transportation of freight in any city, or allow the use of the ordinary dummy or box-car engine, or of locomotives of the kind now used for the traction of cars on steam railroads of this State. Nothing in this act contained shall effect any contract in relation to the removal of steam power on any street in any city of this State.

**CHAP. 470, LAWS OF 1881.**

**AN ACT** in relation to rates of fare upon certain surface steam railroads.

**Rate of fare.**

**SECTION 1.** Any surface steam railroad company created by the laws of this State, whose main line does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city, may collect and receive fare at the rate of five cents each from any and all passengers traveling upon its road a distance of one mile or less; but nothing herein contained shall be deemed to authorize such railroad company to collect or receive fare from passengers traveling upon its road or any connecting line a distance of more than one mile at a greater rate than is now allowed by law for each mile or fraction thereof traveled by them.

**CHAP. 906, LAWS OF 1867.**

**AN ACT** to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, in relation to reports of railroad corporations.

**Prior act limited.**

**SECTION 1.** The requirements of section 31 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second 1850, shall not apply to street or horse railroads, except as hereinafter provided.

**Annual report.**

§ 2. Every railroad corporation in this State whose road is operated by horse power exclusively, or by steam dummy cars exclusively, or partly by horse power and partly steam dummy cars, and every such railroad corporation which shall be hereafter organized, shall make an annual report to the State Engineer and Surveyor, of the operations of the year ending on the thirtieth day of September; which report shall be verified by the oaths of the treasurer or president and acting superintendent of operations, and be filed in the office of the State Engineer and Surveyor by the first of December in each year, and shall state

1. The amount of capital stock.
2. The amount of stock subscribed.
3. The amount paid in as by last report.
4. The total amount now of capital stock paid in.
5. The funded debt as by last report.
6. The total amount now of funded debt.
7. The floating debt as by last report.
8. The amount now of floating debt.
9. The total amount now of funded and floating debt.
10. The average rate per annum of interest on funded debt.



*Cost of road and equipment.*

11. For road-bed and superstructure, including iron, by last report.
12. The total amount now expended for the same.
13. For land, buildings and fixtures, including land damages, by last report.
14. The total amount now expended for the same.
15. For dummy cars, horses, mules and harness, by last report.
16. The total amount now expended for the same.
17. For cars and sleighs, by last report.
18. The total amount now expended for the same.
19. Total cost of road and equipment.

*Characteristics of road.*

20. Length of road, in miles.
21. Length of road laid.
22. Length of double track, including sidings.
23. Weight of rail, by yard.
24. The number of dummy cars, of cars, and of horses and mules.
25. The total number of passengers carried in cars.
26. The total number of tons of freight carried in cars.
27. The rates of fare for passengers.
28. The average time consumed by passenger cars in passing over the road.

*Expenses of maintaining the road and real estate.*

29. Repairs of road-bed and railway (including iron), and repairs of buildings and fixtures.
30. Taxes on real estate (to include all taxes except for United States revenue).
31. Total cost of maintaining road and real estate.

*Expenses of operating road, and for repairs.*

32. General superintendence.
33. Officers, clerks, agents and office expenses.
34. Conductors, drivers and engineers on dummy cars.
35. Watchmen, starters, switchmen, roadmen, etc.
36. Repairs of dummy cars.
37. Repairs of cars and sleighs.
38. Repairs of harness, including materials and labor.
39. Horseshoeing, including materials and labor.
40. Horses and mules.
41. Stable expenses.
42. Feed, grain, hay, etc., including expense of grinding.
43. Fuel, gas and lights.
44. Oil and waste.
45. Water tax.
46. Damages to persons and property, including medical attendance.
47. Law expenses.
48. Rents, including use of other roads, ferries, etc.
49. Insurance.
50. Advertising and printing.
51. United States tax on earnings.
52. Contingencies.
53. Total expense of operating road and repairs.
54. Receipts from passengers.
55. Receipts from freight.
56. Receipts from all other sources, specifying what, in detail.
57. Total receipts from all sources during the year.
58. Payments for transportation, maintenance and repairs.
59. Payments for interest.
60. Payments for dividends on stock, amount and rate per cent.
61. All other payments, specifying what, in detail.

62. Total payments during the year.

63. The number of persons injured in life and limb; the cause of the injury, and whether passengers, employees or other persons. Also whether such accidents have arisen from carelessness or negligence of any person in the employment of such corporation, and whether such person is retained in the service of the corporation.

(Section 3 amends the General Railroad Act of 1850, § 32.)

#### **Application of act.**

§ 4. The provisions of section 32 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, 1850, as herein amended, shall apply to all railroad corporations referred to in section 2 of this act.

### **CHAP. 349, LAWS OF 1882.**

**AN ACT** to authorize the use of the tracks of horse railroads in certain cases.

#### **Railroad companies may use tracks of other roads to make connections.**

**SECTION 1.** It shall be lawful for any railroad corporation in this State whose cars are run and operated by horses on tracks upon the surface of the street, for the purpose of enabling it to connect with and run and operate its cars between its tracks as now run and operated, and a depot or car-house owned by it, to run upon, intersect and use, for not exceeding the distance of 500 feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner, with the necessary connections and switches for the proper working and accommodation of the cars upon the said tracks and in connection with such depot or car-house.

#### **Compensation.**

§ 2. Any corporation availing itself of the privileges granted by the first section of this act shall pay therefor such compensation as it may agree upon with the corporation owning the tracks which it is thereby authorized to run upon, intersect and use; and in case the said corporations cannot agree as to the amount of such compensation, the same shall be ascertained and determined by commissioners to be appointed by the Supreme Court as is now provided by law in respect to acquiring title to real estate by railroad corporations.

#### **Not to affect surface roads in New York city, or on Washington street in the city of Brooklyn.**

§ 3. This act shall not affect any surface railroad in the city and county of New York, nor shall any thing herein contained be construed as authorizing the use or crossing of any railroad tracks now constructed on Washington street in the city of Brooklyn, or the construction, laying and maintenance of any tracks, switches, sidings, connections or turnouts upon said Washington street, or upon any street where it intersects or crosses the same.

### **CHAP. 252, LAWS OF 1884.**

**AN ACT** to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.

**Corporators, not less than thirteen; articles of association; what to contain when filed; duty of Secretary of State; subject to provisions of title 3, chapter 18 of the first part of the Revised Statutes, except seventh section; subject to General Railroad Act, except as modified; certificate to be filed with Secretary of State; what to contain.**

**SECTION 1.** Any number of persons, not less than thirteen, may make and sign articles of association, and form a company for the purpose of constructing, maintain-

ing and operating a street surface railroad for public use in the conveyance of persons and property in cars for compensation, in any of the cities, towns or villages of this State, or in any two or more civil divisions thereof. Such articles of association shall state the name of the company, the number of years the same is to continue, the names of the cities towns and villages, and the counties, and the names or description of the streets, avenues and highways in which the road is to be constructed, the places from and to which the road is to be constructed, maintained and operated, the length of said road, or as near as may be, the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of the seven or more directors of the company who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber of said articles of association shall subscribe thereto his name, place of residence, and number of shares of stock he agrees to take in said company. Such articles of association shall be filed in the office of the Secretary of State when \$1,000 of stock for every mile of railroad proposed to be constructed has been subscribed thereto, and ten per cent paid thereon in good faith, in cash, to the directors named in said articles of association, and when there is indorsed on said articles of association, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon, as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association. The Secretary of State shall indorse on said articles of association the day they are filed, and record the same and said affidavit in a book to be provided by him for that purpose; and from the date of such filing the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title. Such corporation shall also have all the powers and privileges granted, and be subject to all the liabilities imposed by this act, or by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1860, and the several acts amendatory thereof, except as the said acts are herein modified. No existing street surface railroad company shall extend its line, or construct any branch thereof under this act, until it has made and filed with the Secretary of State a certificate signed by its board of directors, which certificate shall contain a statement of the name of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extension or branch is to be constructed, the places from and to which the same is to be constructed, maintained and operated, and the length thereof as near as may be.

**Board of directors; their number.**

§ 2. The board of directors of every corporation formed under this act shall consist of not less than seven nor more than thirteen.

**Powers and privileges; proviso; consent of owners to be acknowledged; who are the local authorities.**

§ 3. Any company organized as aforesaid, or any existing street surface railroad company or corporation heretofore organized for the purpose of building and operating a street railroad, may construct, maintain and operate, use and extend a railroad or branches on the surface of the soil, through, upon and along any of the streets, avenues, roads or highways of such cities, towns and villages, and also through, along and upon any private property which said company may acquire for the purpose, and may also construct such switches, sidings, turnouts and turn-tables, and suitable stands as may be necessary for the convenient working of such road, provided that the consent in writing of the owners of one-half in value of the property bounded on, and the consent also

of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, be after the passage of this act first obtained. The consent of such owners shall be acknowledged as are deeds entitled to be recorded. In any city the common council acting subject to the power now possessed by the mayor to veto ordinances, and in any village the board of trustees shall be the local authorities to give all the consents required under this act in respect of such city or village. Provided that where in any city the exclusive control of any street, road, highway, avenue, or property which is to be used or occupied by any such company is, by law, vested in any local authority other than the common council of such city, the consent of the local authorities, in whom such exclusive control is so vested, shall be also obtained.

See in this connection Laws of 1860, chap. 10.

**Notice; to be published for how long time; consent of local authorities to be applied for in writing; when consent shall cease; value, how determined; when consent of property holders is not obtained.**

§ 4. In incorporated cities, before acting upon an application for their consent, the local authorities shall give public notice of such application and of the time and place when such application will first be considered by a notice thereof, to be published daily for at least fourteen days in two daily newspapers of said city, to be designated by the mayor of the city. And when such application is made to the local authorities of any incorporated village, the notice of such application shall be published for at least fourteen days in a newspaper published in said village, if any there shall be; if none, then in two daily newspapers published in the city nearest such village. The consent of the local authorities shall in all cases be applied for in writing, and when granted, shall be upon the express condition that the provisions of this act pertinent thereto shall be complied with, and shall be filed in the office of the county clerk of the county in which said railroad is located. Any consent so given by said local authorities shall cease and determine at the expiration of one year thereafter, unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners or the determination of commissioners confirmed by the court, as herein provided. The consent of the local authorities, given as aforesaid, shall operate as the consent of such city, town or village, as the owners of any property, that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such property is bounded, except that where such railroad runs through any street or avenue bounded on one side by any public park or square, the consent of one-half the owners of property on the other side of said street or avenue, and opposite such park or square, shall also be first obtained. For the purposes of this act the value of the property so bounded shall be ascertained and determined from the assessment-roll of the city or town in which such property is situated, confirmed or completed last before the local authorities shall have given their consent, excepting such property owned by such city, town or village, the value of which shall be ascertained and determined by allowing therefor the same price or value as is shown by such assessment-roll to be the value of the equivalent in size and frontage of any adjacent property on the same street. In case the consent of property owners required by any provision of this act cannot be obtained, the company so failing to obtain such consents may apply to any general term of the Supreme Court held in the district in which the road of such company is proposed to be constructed, for the appointment of three commissioners to determine, after a hearing of all parties interested, whether such railroads ought to be constructed and operated.

**Id.; service of notice; commissioners to be appointed; vacancies.**

§ 5. Notice of such application shall be served personally upon each property owner not having given his consent by delivering the same to him or his agent or representative, as such owner, agent or representative appears upon such assessment-roll of the city or town in which the property is situated; or by mailing the same, properly folded and directed, to such owner, agent or representative, at the post-office nearest his usual place of residence, with the postage paid thereon, at least ten days prior to such application. If the person on whom such service is to be made is unknown, or his residence is

unknown, and cannot by reasonable diligence be ascertained, no service of such notice, personally or by mail, need be made. And said general term of the Supreme Court to which such application is made, upon due proof of the service aforesaid, shall appoint three disinterested persons, who shall act as commissioners, and said commissioners, within ten days after their appointment, shall cause public notice to be given of their first sitting, in the manner described by said general term, and may adjourn from time to time until all their business is completed. Vacancies may be filled by said general term, after such notice to persons interested as it may deem proper to be given, and the evidence taken before as well as after the occurring of the vacancy shall be deemed to be properly before said commissioners.

**Commissioners to determine whether road ought to be constructed to be confirmed by court; taken in lieu of consent of property owners shall be made within sixty days unless extended.**

§ 6. The said commissioners shall determine, after such public hearing of all parties interested, whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to said general term, and their determination that such road ought to be constructed and operated, confirmed by said court, shall be taken in lieu of the consent of the property owners before mentioned. Such report shall be made within sixty days after appointment of said commissioners, unless the said court or judge thereof shall, for good cause shown, extend such time.

§ 7. Repealed. See chap. 642, Laws of 1886, § 5.

**In cities having population of 250,000 or more, corporation to pay percentage of gross receipts into city treasury; in other incorporated cities or villages where company or corporation fail to pay such percentage, verified report to be made; forfeiture; false report; punishment therefor.**

§ 8. Every corporation incorporated under, or constructing or operating a railroad constructed or extended under the provisions of this act, within the cities of the State having a population of 250,000 or more, as aforesaid, shall for and during the first five years after the commencement of the operation of any portion of its railroad, annually, on the first day of November, pay into the treasury of said respective cities, in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending the next preceding thirtieth day of September, and after the expiration of said five years make a like annual payment into the treasury of said respective cities for the credit of said sinking funds of five per cent instead of three per cent of said gross receipts, provided, however, that every corporation now existing and operating a street surface railroad which shall extend its tracks or construct branches therefrom, and operate such extensions or branches under the provisions of this act, or the corporation operating such branches or extensions, shall pay such percentages as aforesaid only upon such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension and branches shall bear to the entire length of its tracks. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this act, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of said city or village, as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner hereinbefore provided. The company or corporation failing to pay such percentage of its gross earnings, as aforesaid, shall, after said first day of November, pay in addition thereto five per cent a month on such percentage until paid. The president and treasurer of any company required by the provisions of this act to make a payment annually upon its gross receipts shall, on or before the first day of November in each year, make a verified report to the comptroller or treasurer of the city, of the gross amount of its receipts for the year ending the next preceding thirtieth day of September, and the books of said company shall be open to inspection and examination by said comptroller, treasurer, or his duly appointed agent, for the purpose of ascertaining the correctness of said report as to said gross

receipts. The corporate rights, privileges and franchises acquired under this act, by any corporation which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the State of New York, and upon judgment of forfeiture rendered in a suit brought in the name of the people by the Attorney-General, shall cease and determine.\* Any person intentionally making a report as herein provided, which shall be false, shall be guilty of perjury.

**Corporation to keep certain portion of streets in repair ; when neglected, local authorities may enact ordinances ; penalty.**

§ 9. Every such corporation incorporated under, or constructing, extending or operating a railroad constructed or extended under the provisions of this act, within the incorporated cities and villages of this State, shall also whenever and as required and under the supervision of the proper local authorities, have and keep in permanent repair the portion of every street and avenue between its tracks, the rails of its tracks and a space two feet in width outside and adjoining the outside rails of its track or tracks so long as it shall continue to use such tracks so constructed under the provisions of this act. In case of neglect of such corporations to make such pavement or repairs, the local authorities may make the same at the expense of such corporation, after the expiration of thirty days' notice to do so. The local authorities having charge of streets, avenues, roads or highways in cities and incorporated villages may make such reasonable ordinances or regulations as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest and convenience of the public may require. A corporation whose servants or agents willfully or negligently violate such an ordinance or regulation, as aforesaid, shall be liable to such city or village for a penalty not exceeding \$500.

**Within what time road to be built.**

§ 10. In case any corporation incorporated under this act, or seeking to to\* extend its road under the provisions thereof, shall not commence the construction or extension of its road within one year after it has acquired the consent of the local authorities and property owners, or determination of the general term of the Supreme Court, as herein required, and shall not complete the same within three years after obtaining such consents, its rights, privileges and franchises acquired under the provisions of this act shall cease and determine. During the pendency of legal proceedings the Supreme Court shall have power to extend the period for the performance of any act herein required.

**Compensation of commissioners.**

§ 11. The commissioners provided for in this act, to be appointed by the general term, shall receive the sum of \$10 each per day for each and every day they may be engaged, and the charges, expenses and disbursements of such commissioners shall be paid by the company making the application for their appointment.

**Motive power.**

§ 12. Any street surface railway company may in any case operate any portion of its road by animal or horse power, or by any power other than locomotive steam power, which may be consented to by the local authorities and by a majority of the property owners, obtained in accordance with sections 3 and 4 of this act.

**Rate of fare ; where not to apply.**

§ 13. No company or corporation incorporated under, or constructing and operating a railroad under the provisions of this act, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road or line or branch operated by it, or under its control, to any other point thereon, or on any connecting branch thereof within the limits of any incorporated city or village. This section shall

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\* So in original..

not be construed to apply to any part of any road heretofore constructed, and now in operation, unless such company shall acquire the right to extend such road, or to construct branches thereof under the provisions of this act, in which event its rate of fare shall not exceed its authorized rates prior to such extension.

As to City of Buffalo, see chap. 431, Laws of 1886.

**Not to construct road in street, etc., where other surface road is built without consent of such other road; proviso; commissioners.**

§ 14. Except for necessary crossings, no street surface railroad company shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway in which a street surface railroad is, or shall be lawfully constructed, except with the consent of the company owning and maintaining the same; provided, however, that any two or more railroad companies now existing or hereafter formed under the provisions of this act, may join and unite and use each other's tracks for a distance not exceeding 1,000 feet, whenever the court, upon an application for the appointment of commissioners, next hereinafter provided, shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, and that the public convenience requires the same, in which event the right of such use shall be given only for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts, as provided in respect to acquiring title to real estate under chapter 140 of the Laws of 1860, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and the several acts amendatory thereof; or by the Board of Railroad Commissioners in cases where the companies interested shall unite in a request for such Board to act. Such commissioners, in determining the compensation to be paid for the use by one company of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the company whose tracks may be so used.

**Corporation may lease portions of its track to other corporations; restriction.**

§ 15. It shall be lawful for any street surface railroad company or companies to lease, or to transfer its or their right, subject to all its or their obligations in respect thereof, to run upon or to use any portion of its or their railroad tracks, to any other street surface railroad company authorized to run upon such route, upon such terms as may be agreed upon by a majority of the respective boards of directors thereof, subject to approval or rejection by a vote of a majority of the stock represented at meetings of the stockholders of each of such companies, called for that purpose, and held within three months after such agreement shall have been adopted by the several boards of directors. But nothing in this section shall be construed to authorize any railroad company in cities of over 300,000 population, to lease its rights or franchises to any other company in said cities which owns and operates a road parallel thereto.

**No road to be constructed under chapter 606, Laws of 1875.**

§ 16. No street surface railroad shall be constructed to run in whole or in part upon the surface of any street or highway under the authority of any commission appointed under the provisions of chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in counties of the State," or the acts in addition thereto or amendatory thereof.

**Nor upon ground occupied by public buildings or parks; exception.**

§ 17. No street surface railroad shall be constructed or extended under the provisions of this act upon ground occupied by buildings belonging to any town, city, county or to this State, or to the United States, or in public parks, except in tunnels, to be approved by the local authorities having control of such parks.

See, also, chap. 179, Laws of 1887, as to New York city.

**Repeal; proviso.**

§ 18. All acts and parts of acts, whether general or special, inconsistent with this act, are hereby repealed, but nothing in this act shall revive or make valid for the purposes of this act any consents of property owners or local authorities obtained prior to the



passage of this act, or shall interfere with or repeal or invalidate any rights heretofore acquired under the laws of this State by any horse railroad company, or affect or repeal any right of any existing street surface railroad company to construct, extend, operate and maintain its road in accordance with the terms and provisions of its charter, and the acts amendatory thereof, or revive any charter which has become lapsed or forfeited, or any pending litigation.

**Power of Legislature, etc.**

§ 19. The Legislature may at any time alter, amend or repeal this act.

**CHAP. 642, LAWS OF 1886.**

**AN ACT** to amend chapter sixty-five of the laws of eighteen hundred and eighty-six, entitled "An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages."

SECTION 1. Chapter sixty-five of the laws of eighteen hundred and eighty-six is hereby amended so as to read as follows:

**Franchise for road must be sold; sale how conducted; rates of fare, etc.**

§ 1. The local authorities of any incorporated city or village, to whom application may be made for consent to the construction, maintenance, use, operation or extension of a street railroad or a railroad or railway for the transportation of passengers, mails or freight, over, upon, under or through any of the streets, roads, avenues, parks or public places in such city or village must provide, as a condition of the said consent to the use of said street, road, avenue, park or public place, that the right, franchise and privilege of using the said street, road, avenue, park or public place, shall be sold at public auction to the bidder who will agree to give the largest percentage per annum of the gross receipts of said company or corporation, with adequate security as hereinafter provided, for the fulfillment of said agreement and for the commencement and completion of such road according to the plan or plans, and on the route or routes fixed for its construction within the time or times hereinafter designated and prescribed therefor, but this agreement shall not release any such road from the percentages required to be paid by chapter 252 of the Laws of 1884. The Legislature expressly reserves the right to regulate and reduce the rate of fare on such railroad or railway. The local authorities of any city or village may give such consent to any applicant therefor duly incorporated and existing under the laws of this State for the purpose of providing street railroad facilities for compensation in said city or village; and the bidder to which such consent may be sold shall be an incorporated railroad or railway company, organized to construct, maintain and operate a street railroad in the city or village for which such consent may be given. Prior to such sale, notice of the time, place and terms thereof, and of the route or routes to be sold, and of the conditions upon which the consent of said local authorities to the construction, maintenance, use, operation or extension of such street railroad or any railroad or railway carrying freight, passengers or mails over, under or upon any of the streets, roads, avenues, parks or public places of any incorporated city or village will be given, shall be published three times a week for at least three weeks in two daily newspapers of said city, to be designated by the mayor of said city, except in cities where two daily papers are not published, then said notices shall be published at least once a week for at least three weeks successively in a newspaper published in said city, to be designated by the mayor. And the local authorities of any incorporated village shall, prior to any sale by them as herein provided, cause the notice above provided for to be published for at least three weeks in a newspaper published in said village, if any there shall be; if none, then in two daily newspapers published in the city nearest said village. The comptroller or other chief fiscal officer of the cities, and the president of the board of trustees in villages, shall attend and conduct the sale to be made under the provisions of this act, and may adjourn the same from time to time, not exceeding twice for a period not exceeding four weeks in the aggregate, and may cancel the bid if the bidder shall not furnish satisfactory security, and sell the said consent and license in the same manner as above provided. The bidder or bidders to whom the said consent or license shall be sold, shall commence the

construction of the said road within one year, and complete the same within three years from the date of sale. The said bidder who may build and operate said railroad, shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities of the city or village, and in the event of the failure or refusal of the party or corporation operating or using the railroad to be constructed as aforesaid to pay the rental or percentage of gross earnings agreed upon, then, upon notice to the said party or corporation — of not less than sixty days — the said consent and right to operate such railroad may be declared forfeited, and the same may be resold to the highest bidder in the manner above provided. Such forfeiture may be decreed or ordered by the judgment of any court having jurisdiction, after the party or corporation shall have opportunity to be heard in their defense.

**When consents shall cease; when not to apply to elevated roads; not applicable to certain surface street roads.**

§ 2. This act shall apply to all applications for consents by such local authorities to construct, maintain, use, operate or extend such street railroads or railways as aforesaid, made under or in pursuance of any statute, whether such application is hereafter made or may have been heretofore made, but not at the passage of this act finally acted upon by the local authorities; and all consents hereafter given by said local authorities shall cease and determine at the expiration of two years thereafter, and all such consents heretofore given shall cease and determine at the expiration of two years from the date of the passage of this act, unless prior to the expiration of such period or periods the consent of the owners of a sufficient proportion of the property situated on the line of the proposed railroad or railway, or the approval of the general term of the Supreme Court shall have been obtained. None of the provisions of this act, or of chapter 65 of the Laws of 1886, or of chapter six hundred and forty-two of the Laws of eighteen hundred and eighty-six, except the provisions of this section in relation to the determination of the consents of said local authorities shall apply to companies now organized or hereafter to be organized for the purpose of building elevated railroads in counties having less than 1,000,000 inhabitants, nor to street surface railroad companies heretofore organized in cities or villages of less than eighty-five thousand inhabitants. (*Thus amended, chap. 622, Laws of 1887.*)

**Security, nature and form of.**

§ 3. The security required by section 1 of this act shall be a bond or undertaking in writing and under seal, in such form, condition, amount and sureties as shall be required and approved by the comptroller or other chief fiscal officer of any such city, and by the trustees of any such village.

**Limitation.**

§ 4. This act shall not affect the New York Arcade Railway Company nor the rights possessed by it.

**Repeal.**

§ 5. Section 7 of chapter 252 of the Laws of 1884, entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages," and all amendments of said section, and all acts or parts of acts inconsistent herewith are hereby repealed.

#### CHAP. 271, LAWS of 1886.

AN ACT in relation to the consents of property owners, order of the general term confirming reports of commissioners and the consents of the local authorities heretofore given to the construction and operation of street surface railroads by companies which have been dissolved or annulled, or whose charter may have been repealed by legislative enactment.

**Dissolution of company not to revoke consent of owners.**

SECTION 1. Whenever any street surface railroad company shall have been dissolved or annulled, or its charter repealed by an act of the Legislature, the consent of the owners

of property bounded on and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such company shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated, or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being for the uses and purposes herein mentioned.

**Right to further enjoyment to be sold.**

§ 2. The right to the further enjoyment and the use, subsequent to said act, of dissolution, annulment or repeal, of the said consents and orders and of each thereof, and of all the powers, privileges and benefits therein or thereby created shall be sold at public auction by the municipal authorities within whose jurisdiction such railroads shall be, in the same manner as is provided by section 1 of chapter 65 of the Laws of 1886, and laws amendatory thereof.

**Rights of purchaser on resale.**

§ 3. When such sale shall have been so made, the purchaser thereof shall have the right to the further enjoyment and use of said consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created in like manner as if such purchaser had been originally named in such consents, reports and orders; provided, that such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroads shall be.

**CHAP. 305, LAWS of 1885.**

**AN ACT** authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers.

**Street surface roads may contract with each other.**

SECTION 1. It shall be lawful hereafter for any street surface railroad company, or any corporation owning or operating a street surface railroad or railroad route, to contract with any other such company or corporation for the use of their respective roads or routes, or any portion thereof, subject to the provisions, restrictions and conditions hereinafter stated, and thereafter to use or to permit the use of the same in such manner as may be prescribed in such contract. But nothing in this act shall authorize the road or route of any railroad corporation to be used or operated by any other railroad corporation in a manner inconsistent with the provisions of the charter of the corporation whose railroad or railroad route is to be used or operated under such contract.

**Directors may enter into lease or contract.**

§ 2. The directors of the companies may enter into such a lease or contract under the corporate seal of each company, such lease or agreement prescribing the terms and conditions thereof.

**Agreement to be submitted to vote of stockholders; lease to be filed and recorded.**

§ 3. Such lease or agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately for the purpose of taking the same into consideration; due notice of the time and place of hold-

ing said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, at the address of such persons as stated on such books, or as known to the secretary of the company, and delivered or mailed to such persons or the legal representatives of such persons respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws, or of judicial proceedings and legal notices in the county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holders thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of stockholders cast in person or by proxy at such meeting shall be for the adoption of said lease or agreement, then that fact shall be certified thereon by the secretaries of the respective companies under the seal thereof, and the lease or agreement so adopted, or a certified copy thereof, shall be filed and recorded in the office of the Secretary of State, and shall from the time of such filing be deemed and taken to be the lease or agreement of the said companies; a copy of the said lease or agreement, duly certified by the Secretary of State under his official seal, shall be evidence thereof in all courts and places.

**Companies contracting shall carry passengers between any two points; one continuous trip for one fare; penalty.**

§ 4. Each and every company entering into any contract under the power conferred by this act shall carry or permit any other party to such contract to carry between any two points on the railroads or portions thereof embraced within such contract, any passenger desiring to make one continuous trip between such points for one single fare not higher than the fare lawfully chargeable by either of such companies for an adult passenger; and each and every such company shall, upon demand and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or any portion of any railroad embraced within such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced within such contract to the extent of their inclusion therein substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section, the company so refusing, and having contracted as aforesaid, shall forfeit to the aggrieved party the sum of \$50, which may be recovered in any court of competent jurisdiction. This act shall not apply to cities having less than 800,000 population.

§ 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

**CHAP. 140, LAWS OF 1882.**

**AN ACT** authorizing individuals, companies, associations and private corporations to construct and operate private railroads in certain cases.

**Lawful to build railroads on or across highway; proviso as to consents to be obtained; act not to apply to villages and cities; must not interfere with or obstruct the public use of any highway.**

**SECTION 1.** It shall be lawful for any individual, company, association or private corporation to build and operate solely for the purpose of conducting the business of such individual, company, association or corporation, a railroad on or across any highway; provided that consent in writing, and under seal, of the owners of all lands on which

any such railroad may be built, abutting a highway, be first obtained; and provided further, that the consent in writing of the supervisor of the town in which any railroad proposed to be built under this act is located be also first obtained; and provided further, that this act shall not apply to any city or village; and provided further, that no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or interfere with or obstruct the public use of any highway, or any highway intersecting the same.

#### CHAP. 317, LAWS of 1881.

AN ACT to authorize a change, in certain cases, of the time for holding elections in railroad companies.

**Companies may change time for holding elections.**

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may by a vote of a majority of the stock, either in person or by proxy, thereof to that effect, and filing in the office of the Secretary of State a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April, provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

(Chapter 338, Laws of 1881, relates to elevated railroads.)

#### CHAP. 498, LAWS OF 1885.

AN ACT to authorize a change in certain cases of the time and place for holding elections of railroad companies.

**Stockholders may change time for holding election of directors.**

SECTION 1. Any railroad company organized under the laws of this State and doing business therein may change the time and place of its annual election for directors of such company by a vote of its stockholders, representing a majority of all the stock of the company, and by filing in the office of the Secretary of State a copy of such proceedings and vote certified by the secretary of the company under its corporate seal; but such change of place shall only be made to an incorporated village or city in the State of New York in which the executive office of such company shall be located; and the change of the time for holding such election shall only be made from the date fixed by its charter or by-laws to some day in the month of December preceding the date or time at which such election would otherwise have been held.

#### CHAP. 135, LAWS OF 1870.

AN ACT for the relief of corporations organized under general laws.

**Directors authorized to make and file amended certificates to cure omission or informality; effect thereof.**

SECTION 1. The directors of any corporation, organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and, upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate.

**Proviso.**

§ 2. Nothing in this act contained shall in any manner affect any suit or proceeding, at the time of filing such amended certificate, pending against such corporation, or impair any rights already accrued.

**CHAP. 489, LAWS OF 1885.**

**AN ACT to protect stockholders of corporations from the wrong-doings of directors in certain cases.**

**When directors refuse or neglect to adopt by-laws to enable stockholders to hold annual election; acts, etc., of directors holding over, void.**

**SECTION 1.** Whenever the directors named in the articles of association of any corporation organized under any general law of this State neglect or refuse during the first year of the corporate existence to adopt the by-law required by law to enable stockholders to hold the annual election for directors, and where by such neglect the said directors hold over and continue to be directors after the expiration of the first year of the corporate existence, all acts and proceedings of the directors when so holding over, done for and in the name of the company designed to charge upon the company any liability or obligation for the past services of any director so holding over, or for the past services of any officer, or attorney, or counsel appointed by them, and such liability or obligation shall be considered fraudulent and void.

**Cases in which any stockholder may apply for stay of proceedings in action, etc.**

§ 2. When directors of any such association or corporation are so holding over by their wrongful neglect of duty beyond the term for which they were appointed or elected, and an action has been brought against the company by the procurement of any of them to enforce any claim or obligation declared void by the preceding section, and such action is in the interest or for the benefit of any director or directors so holding over, and the company has by their connivance made default in such action, or consented to the validity of the claim or obligation so sought to be enforced against the company, any stockholder of the company may apply to the supreme court by affidavit, setting forth the facts, for a stay of the proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, the supreme court may stay such proceedings or set aside and vacate the same, or grant such other relief as to the court may seem proper, and which will not injuriously affect an innocent party, who without notice of such wrong-doings and for a valuable consideration has acquired rights under such proceedings.

**Election of directors; place of meeting, etc.**

§ 3. When the directors of any association or corporation shall neglect or have neglected to adopt a by-law providing for the annual election of directors for sixty days after the first year of the corporate existence, the stockholders thereof may elect directors in the place of the directors holding over in the manner following: Stockholders entitled to vote for directors of such association or corporation as prescribed by section eight, chapter eighteen, title four, part first of the Revised Statutes, may meet after previous notice in writing given by them to all the stockholders, at least fifteen days before such meeting, of the time and place when and where such meeting will be held, for the purpose of electing directors; and it shall be the duty of any officer or other person having charge of the book or books of the association or corporation containing the names of the stockholders, to allow the same to be examined by any stockholder aforesaid, or his attorney, for the purpose of giving such notice. The place of such meeting shall be the principal office of such company, or in case it has no such office, at the place in this State where its principal business has been transacted, or if access to such office or place is denied, then at some other place to be designated in

such notice in the city, town or village where the principal office of such company is or was last located. At such meeting such stockholders shall elect two or more inspectors of election. If at such meeting a majority of the votes cast on stock entitled to be voted on for directors, as prescribed by said section eight, chapter eighteen, title four, part one of the Revised Statutes, shall be voted upon and cast for one ticket for directors, the persons so named and voted for as directors shall thereupon be the directors of such association or corporation until the next annual election and until others are elected and qualified in their stead and without reference to the time when they became stockholders. In the absence at such meeting of the books of the association or corporation, showing who were and are stockholders of the association or corporation, each stockholder, in order to be entitled to vote at such election, shall make or present a statement in writing to be signed and verified by him under oath before a notary public or other person authorized to administer oaths, setting forth the number of shares of the stock of such company standing in his name on its books and upon which he is entitled to vote as prescribed by the section of the Revised Statutes heretofore referred to, and which is then owned by him and standing on the books of the company in his name, and if known to him he shall also state the whole number of shares of stock issued by said association or corporation at the time when the election ought to have been held, and on filing such affidavit or verified statement with the inspectors, he shall be entitled to vote on such stock so appearing to be owned by him and standing on the books of the company in his name. The inspectors shall return and file such verified statements, together with a certificate of the results of the election, which shall be verified by them, with the clerk of the county in which such election is held, and thereupon the persons so elected shall be the directors of such association or corporation as aforesaid.

#### **Stockholders may adopt by-laws.**

§ 4. The stockholders aforesaid at the meeting authorized by the preceding section, in addition to electing directors as aforesaid, may adopt a by-law providing for the future annual meetings and election of directors, such by-laws shall be adopted in the same manner and by the same number of votes as is above prescribed for the election of directors, and shall have the same effect as if such by-law had been adopted by the directors of the company.

### **CHAP. 586, LAWS OF 1875.**

**AN ACT** to define the powers and privileges of railroad corporations and to repeal sections 3 and 4 of chapter 278 of the Laws of 1868, entitled "An act in relation to the Erie, New York Central, Hudson River and Harlem Railway Companies."

#### **Postponement of annual election.**

SECTION 1. When the time for holding the annual election for the directors of any railroad company is now fixed by any law, charter or by-law for a time within three months before the thirtieth day of September in any year, the directors of such company may by resolution, to be published at least thirty days before the time now established for such election, postpone such election to a time not more than two months after the thirtieth of September the next ensuing, and thereafter the annual election of such company shall be held in each year on the day so designated, and the term of office of the directors of such company, in office when such change is made, shall be extended to the day thus fixed for the next election of directors, and the election of their successors.

#### **Company may purchase lands and stock in other states for the purpose of securing a permanent supply of fuel.**

§ 2. Any railroad company organized under the laws of this State may purchase, hold and convey lands, or any interests in lands, in any other State through which any part of its railroad is operated, or may purchase, hold and transfer stock in any company



organized in another State, owning lands as aforesaid, for the purpose of securing for such railroad in this State a permanent supply of fuel for its use.

**CHAP. 223, LAWS OF 1864.**

**AN ACT to regulate the rights and duties of officers and directors of railroad corporations.**

**Officers and directors prohibited from selling or agreeing to sell stock, etc.**

**SECTION 1.** No officer or director of any railroad corporation shall sell or agree to sell or be directly or indirectly interested in the sale or agreement to sell, any shares of the stock of the corporation of which he is such officer or director, unless at the time of sale or agreement to sell, he is the actual owner of such shares.

**Violation a misdemeanor; punishment.**

**§ 2.** Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

**CHAP. 510, LAWS OF 1880.**

**AN ACT to regulate voting by stock and bondholders of railroad corporations.**

**Inspectors of election to be sworn.**

**SECTION 1.** Before entering upon his duties each inspector of election at a meeting of the stockholders of any railroad company of this State, for the purpose of electing directors thereof, or for any other purpose, shall take and subscribe before some officer authorized to administer oaths, an oath or affirmation that he will well and truly do and perform the duties of the office of an inspector at such election, according to the best of his ability, which oath or affirmation shall be immediately filed in the office of the clerk of the county in which such election shall be held, together with a certificate of the result of the vote taken at such meeting or election.

**Proxies; stockholders prohibited from selling vote or proxy; form of oath; false swearing; perjury; penalty.**

**§ 2.** It shall not be lawful for any person to vote, or to issue a proxy to any other person or persons to vote at any meeting of stockholders or bondholders, or of stockholders and bondholders of any railroad corporation in this State for the election of directors, or for any other purpose, upon any stock or bonds where the certificates for said stock or the said bonds shall not be in the possession or under the control of the person on whose behalf the vote is to be given, and such last mentioned person shall have ceased to retain the title to the stock represented by such certificates or the said bonds as owner in his own right or in his capacity of executor, administrator, trustee, committee, guardian, or otherwise, notwithstanding said stock or bonds may still stand in his name on the books of said corporation. No person having the right to vote upon stock or bonds shall sell his vote or issue a proxy to vote upon such stock or bonds to any person for any sum of money, or any thing of value whatever. Any person offering to vote upon stock or bonds registered or standing in his name shall, if required by any inspector of election, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that in voting at this election I have not, either directly or impliedly, received any promise or any sum of money, or any thing of value whatever, to influence the giving of my vote or votes at this election; and that I have not sold or otherwise disposed of my interest in or title to any shares or bonds in respect to which I offer to vote at this election, but that all such shares and bonds still remain in my possession or subject to my control." And any person offering to vote as agent, attorney or proxy for any other person shall, if required by inspector of election, take and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm)

that the title to the stock or bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose name they now stand, and that the said persons still retain control of the said shares and bonds, and that I have not, either directly or indirectly or impliedly, given any promise or any sum of money, or any thing of value whatever to induce the giving of the authority to vote upon such stock or bonds to me." The inspectors at any such election are authorized to administer the aforesaid oath or affirmation, and said oath and said proxies shall be filed in the office of said corporation. Any person who knowingly or willfully shall swear or affirm falsely in taking the oath or affirmation prescribed by this act shall be guilty of perjury. Any person violating any of the other provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

#### CHAP. 582, LAWS OF 1880.

AN ACT to provide for excavating and tunneling and bridging for transportation purposes within villages and cities of this State.

**When necessary to build road under ground or under water, company may enter upon and acquire title to lands, may construct masonry foundations, etc.; tunnel to be built so as to leave surface of ground firm and safe; when consent of owners must be obtained; in case owners do not consent general term of Supreme Court may appoint commissioners to determine whether road ought to be built; proviso as to connection with other roads in cities and villages.**

SECTION 1. Whenever according to the route and plans adopted by any railroad company heretofore or hereafter formed under any special act of the Legislature of this State, or under chapter 140 of the Laws of 1880, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and all acts supplementary thereto or amendatory thereof for the building of its railroad, it shall be necessary or proper to build said road, or any part of the same, under ground, or to tunnel or bridge any river or waters, it shall be lawful for said company to enter upon and acquire title to and use such lands under water and uplands, except on or along any canals owned by the State, as shall be necessary for purposes herein mentioned; and they shall have the power to construct, erect and secure the necessary foundations and other structures which may be required for the operating of such road or connecting the same with another, and for maintaining the same, and purchase or acquire, in the manner now provided by law, such land, or rights or easements in land, along their said route upon, over, or beneath the surface thereof as may be necessary for the building of their said road and making such connections; provided, however, that where said road runs underneath the ground at such depth as to enable said company to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof, firm and safe for buildings and other erections thereon, and, in case surface excavations are made, as soon as can be done the surface shall be restored to its former condition, except so far as may be actually required for ventilation of the tunnel beneath the same, or access thereto; and provided, further, that whenever such road, or any part of the same, is intended to be built within the limits of any city or incorporated village of this State and to run by means of a tunnel underneath any of the streets, roads or public places thereof, the said company, before building the same underneath any of the said streets, roads or public places, shall obtain the consent of the owners of one-half in value of the property bounded on the line, and the consent of the board of trustees of the village by resolution adopted at a regular meeting and entered on the records of said board, and of the proper authorities having control of said streets, roads or public places; or in case such consent of the owners of property bounded on the line cannot be obtained, the general term of the Supreme Court in the district in which such city or village is situated may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be allowed to be built under-

neath said street, roads and public places, or any of them, and in what manner the same may be so built with the least damage to the surface and to the use of the surface by the public, and the determination by said commissioners, confirmed by the court, may be taken in lieu of the consent of said authorities and property owners. And provided further, that when any railroad company constructs, under this act, its railroad under any part or within the limits of any city or incorporated village of this State, subject to the provisions and limitations of this act, it shall be lawful for any other railroad company to connect its road therewith at such points or places as such company may elect, and all railroad companies constructing their road or roads under the provisions of this act shall be subject to all the provisions of an act entitled "An act to authorize the formation of railroad companies, and to regulate the same," passed April 2, 1850, and all acts supplementary thereto and amendatory thereof; and further, at such point or points, place or places, where such connections shall be made by connecting roads, the railroad companies owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots and other accommodations for handling passengers and freight as may be required for the convenience of the public.

#### **Consolidation with other companies.**

§ 2. Any such railroad company, the greater part of whose road-bed according to its said route and plan is to be below the surface of the ground, and whose road does not exceed three miles in length, may at any time after its said route shall have been adopted, and the map thereof shall have been filed as required by law, merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company organized under the laws of this or any other State, in the manner now provided by law for the consolidation of railroad companies, whenever the railroads of said companies so to be consolidated may together form a continuous line of railroad; provided such consolidation shall not prevent all connecting railroads from having equal rights of transit for their passengers and freight through the tunnel upon the same equitable terms.

#### **Liability for damages.**

§ 3. All railroad companies constructing any tunnel under this act shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary, in constructing any railroad authorized by this act through any city or incorporated village, to alter the position or course of any sewers or water or gas pipes, the same shall be done at the expense of such railroad company or companies, under the direction of the department or corporation having charge thereof, so as not to interfere with said work. In all cases the use of the streets and docks and lands beneath which said railroad is constructed, and on the route thereof, and the right of way beneath the same for the purpose of said railroad, shall be considered and is hereby declared to be a public use consistent with and one of the uses for which its streets, avenues and docks are publicly held.

#### **Act not to be construed to allow building of surface or elevated roads.**

§ 4. Nothing in this act shall be construed to authorize the building in any city or village of this State of any railroad to run upon the surface of any street or of any elevated railroad not now provided for by law. Nothing in this act shall be construed to repeal or modify any part of chapter 380 of the Laws of 1878, entitled "An act relating to the public place or square known as Washington park in the city of New York," or to authorize the use or occupation by any company or companies of any public park or square in any city or village of this State for any of the purposes of this act, or to permit the construction of an open cut railroad in or through any street or public place in any such city or village, but every road constructed under the provisions of this act, in or through any such street or public place, shall be wholly underground, and constructed in a tunnel and not otherwise.

**Repeal.**

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

(Chapter 148, Laws of 1881, refers to right of way over State lands in Richmond county.

**CHAP. 193, LAWS OF 1884.**

AN ACT to enable steam railroad companies having a terminus at the harbor of New York incorporated under the laws of the State of New York to own boats and operate ferries.

**Companies may operate ferries; restriction**

SECTION 1. Any steam railroad company, incorporated under the laws of this State, with a terminus in the harbor of New York, is hereby authorized and empowered to purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, to any point distant not more than ten miles from said terminus, but this act shall not be construed so as to affect the rights of the mayor, aldermen and commonalty of the cities of New York or Brooklyn.

**CHAP. 125, LAWS OF 1858.**

AN ACT in relation to sleeping cars on railroads.

**Extra fare may be charged.**

SECTION 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this State, with the assent of the company owning such road. Such patentee or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for 100 miles; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents.

**Other cars to be provided.**

§ 2. The railroad companies permitting the use of such cars shall, nevertheless, keep sufficient first-class cars of other kinds for the convenient use and occupation of all passengers not wishing to use a sleeping car. And the tickets used for the use of the sleeping cars shall have plainly written or printed thereon, "sleeping car," and all persons using a sleeping car shall be furnished with such tickets.

**Railroad company not to be interested.**

§ 3. No railroad corporation shall be interested in the additional sum paid for the use of berths in sleeping cars, pursuant to the provisions of this act.

**Railroad company to be liable for injuries.**

§ 4. Nothing in this act contained shall be so construed as to exonerate any railroad company from the payment of damages for injuries in the same way and to the same extent they would be required to do by law if such cars were owned and provided by the company.

**CHAP. 353, LAWS OF 1882.**

AN ACT to create a Board of Railroad Commissioners, and to define and regulate its powers and duties.

**Board of Railroad Commissioners to be appointed; how selected; vacancies, how filled; Governor may suspend Commissioner; clerk, his duties; marshal; Commissioners and clerk to take constitutional oath; who prohibited from holding office of Commissioner or clerk.**

SECTION 1. There shall be in and for the State of New York a Board of Rail

road Commissioners, to consist of three competent persons, who shall be appointed by the Governor, by and with the advice and consent of the Senate, one of whom shall hold office three years, one four years, and one five years. Such appointments shall be made within ten days after the 3d day of January, 1883. One of said persons shall be selected from the party which shall cast at the next general election the greatest number of votes for Governor of the State, and one of said persons shall be selected from the party which shall cast at the next general election the next greatest number of votes for Governor of the State, one of whom shall be experienced in railroad business, and one of said persons shall be selected upon the recommendation of the presidents and executive committees, or a majority of such, of the Chamber of Commerce of the State of New York, the New York Board of Trade and Transportation, and the National Anti-Monopoly League of New York, as said organization now exists, or any two of such organizations so represented, in case of disagreement. And after such appointment first made, the Governor, by and with the advice and consent of the Senate, shall in each year that a vacancy occurs fill the same by appointment for the term of five years. If any vacancy happens by resignation or otherwise, he shall in the same manner appoint a Commissioner for the residue of the term. Any Commissioner may be suspended from office by the Governor upon written charges preferred. The Governor shall report the fact of such suspension and the reasons therefor at the beginning of the next ensuing session of the Senate, and if a majority of such Senate shall approve the action of the Governor, such Commissioner shall be removed from office and his term of office shall expire. If the Senate shall not be in session at the time any such vacancy shall occur or exist, the Governor shall appoint a Commissioner to fill the vacancy, subject to approval of the Senate when convened. Said Board shall have a clerk or secretary who shall be appointed by the Board to serve during their pleasure, and whose duty shall be to keep a full and faithful record of the proceedings of said Board, and file and preserve at the general office of said Board all books, maps, documents and papers entrusted to his care, and prepare for service such papers and notices as may be required of him by the Commissioners, and perform such other duties as the Board may prescribe; and he shall have power under direction of the Board, to issue subpoenas for witnesses, and to administer oaths in all cases pertaining to the duties of his office. Such Board shall also appoint a marshal, whose duty it shall be to attend at the offices, and at the meetings and examinations of said Board as required, and to serve notices and other papers, and perform such other duties as the Board shall prescribe. Said Commissioners and clerk shall take and subscribe the constitutional oath of office, and be sworn to the due and faithful performance of the duties of their respective offices, before entering upon the discharge of the same; and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold either of said offices, nor shall either of said Commissioners be engaged in any other business vocations.

The provisions of the foregoing section relative to clerk or secretary amended by chap. 441, Laws of 1884, § 1. See page 419 hereof.

**Principal office; may establish branch office in city of New York and Buffalo; meetings; supplies for offices.**

§ 2. The principal office of said Board shall be at the city of Albany, in rooms to be designated by the Capitol Commissioners, but the said Board may also establish a branch office at the city of New York, and one at the city of Buffalo, if in their judgment such branch offices, or either of them, will be necessary for the proper and convenient transaction of the business and duties of said Board; and said Board, or a quorum thereof, shall meet at least once a month during the year at their office in the city of Albany, and a record of their proceedings shall be published in their annual report to the Legislature. Said offices shall be supplied with necessary postage, stationery, office furniture and appliances, the expense thereof to be paid as other expenses authorized by this act.

**Quorum; Board may order and direct examinations and investigations to be taken by and before one Commissioner; proceedings and decisions not final and conclusive, however, until confirmed by the Board.**

§ 3. Any two of said Commissioners shall constitute a quorum for the transaction of any of the business or duties of said Board, and may hold meetings thereof at any time or place within the State. All examinations or investigations hereinafter provided for may be held and taken by and before any one of said Commissioners, if so ordered and directed by the Board; but the proceedings and decisions of said Commissioner therein shall not be deemed final and conclusive until approved and confirmed by the Board.

**Powers and duties of Board; notice to be given of investigations, examination of books, etc.; fees of witnesses; subpoenas; when to examine books, etc.; to what companies act applies.**

§ 4. Said Board of Commissioners shall have power to administer oaths in all matters relating to their duties, and shall have the general supervision of all railroads and railways (so far as necessary to enable them to perform the duties and exercise the power imposed and conferred by law) and shall examine the same, and keep themselves informed as to their condition, and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance of the several corporations with the provisions of their charters and the laws of the State; it shall also be the duty of said Board of Railroad Commissioners to investigate the causes of any accident on a railroad, resulting in loss of life or injury to person or persons, which, in their judgment, shall require investigation, and the result of such investigation shall also be reported upon in the annual report of the Commissioners to the Legislature; and it is hereby made the duty of the general superintendent or manager of each railroad in this State to inform the said Board of any such accident immediately after its occurrence. Before proceeding to make any such examination or investigation of the condition or operation of any railroad in this State, or any accident thereon, in accordance with this act, said Board shall give reasonable notice to the corporation, person or persons conducting and managing the same of the time and place of entering upon said examination. And such Board of Railroad Commissioners shall have power, for the purposes provided for in this act, to examine the books and affairs of any railroad company or corporation, or to compel the production of copies of books and papers, subpoena witnesses, administer oaths to them, and compel their attendance and examination, as though such subpoena had issued from a court of record of this State. The fees of witnesses before such Railroad Commissioners shall be \$2 for each day's attendance, and five cents per mile traveled by the nearest practicable route in going to and returning from the place where the attendance of the witness is required. All subpoenas shall be signed by the secretary of the Commission, and may be served by any person of full age authorized by the Commission to serve the same. Fees of witnesses shall be audited and paid by the Comptroller on the certificate of the secretary of the Commission, which shall state the number of days which each witness attended, and the number of miles traveled. Whenever any such examination of the affairs of any railroad corporation shall take place in which such Board will require the examination of the books and affairs of such company or corporation, or the subpoenaing of witnesses, who are in the employ of such company or corporation, the Board or a Commissioner thereof shall sit for such purpose in the city or town of this State where the principal business office of such railway corporation may be situated. The Board of Commissioners, however, shall have the power to require copies of books and papers, or abstracts thereof, as provided for in this section, to be sent to them to any part of this State. And the provisions of this act shall apply to all railroads and railways and the corporations, receivers, trustees, directors, or others owning, or operating the same; and also to all sleeping and drawing-room car companies or corporations, and to all other associations, partnerships, companies or corporations engaged in transporting passengers or freight upon any railway as lessees or otherwise.

As to subpoenas, see § 1, chap. 441, Laws of 1884, at page 419 hereof.

**When violation of law by corporations; powers of Commissioners.**

§ 5. Whenever, in the judgment of the Board of Railroad Commissioners, it shall appear that any such corporation has violated any constitutional provision or law,

or neglects in any respect or particular to comply with the terms of the act by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not by its act of incorporation granted, or refuses to comply with the provisions of any of the laws of the State, or with any recommendation of said Board of Commissioners, they shall give notice thereof, in writing, to such corporation; and if the violation or neglect is continued after such notice, the Board may forthwith present the fact to the Attorney-General, who shall take such proceedings thereon as may be necessary for the protection of public interests.

**Where repairs are necessary; change in rates of fare for transportation of freight or passengers; change in the mode of operating the road, etc.; Board to give notice to corporation, in writing, when corporation neglects or refuses to comply; Board to present facts to Attorney-General, also to report same to Legislature.**

§ 6. Whenever, in the judgment of the said board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station-houses, or that additional terminal facilities shall be afforded, or that any change in the rates or fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said Board shall give notice and information, in writing, to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereon; and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action; and shall also report the same facts in a special report or in the annual report of said Board to the Legislature.

**Corporations to furnish necessary information; copies of contract, etc.; publicity; penalty.**

§ 7. Every railroad corporation shall at all times, on request, furnish the said Board of Railroad Commissioners any necessary information required by them concerning the condition, management and operation of its railroad, and particularly with the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and such railroad corporation shall also at all times on request furnish to such Board of Railroad Commissioners copies of all contracts and agreements, leases or other engagements by such corporation entered into with any person or persons, corporation or corporations. But said Commissioners shall not be required to give publicity to such information; contracts, agreements, leases or other engagements, if in their judgment the public interests do not require it or the welfare and prosperity of railway corporations of this State might be thereby otherwise injuriously affected. Every officer, agent or employee of any railroad company who shall, upon due notice, neglect or refuse to make or furnish any statement or report required by said Commissioners in their judgment necessary to the purpose of this act, or who shall willfully hinder, delay or obstruct the said Commissioners in the discharge of the duties imposed by this act, shall be guilty of a misdemeanor.

**Not to affect legal rights.**

§ 8. No personal examination, request or advice of the said Board of Railroad Commissioners, nor any investigation or report made by the same shall have the effect to impair, in any manner or degree, the legal rights, duties or obligations of any railroad corporation or its legal liability for the consequence of its acts, or of the neglect or mismanagement of any of its agents or servants.

**Annual report to Legislature; duty of Board; duty of Board to recommend and draft bills, etc.; change of railway laws.**

§ 9. The said Board of Railroad Commissioners shall make an annual report to the Legislature of their doings, including such statements, facts and explanations as will



disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations as may seem to them appropriate. And the said Board of Railway Commissioners shall be charged with the duty to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such Commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature, or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad company, or by any incorporated organization representing agricultural or commercial interests in the State, and such Commissioners shall thereupon report their conclusions, in writing, to the Legislature, or to such legislative committee, Governor, company, or such organization from whom the request to act emanated.

**Board has power to prescribe form of report ; notice, when blank form of returns to be furnished ; tables and abstracts, what to be presented to Legislature in annual report ; return to be preserved.**

§ 10. The said Board of Railroad Commissioners shall have power to prescribe the form of the report required to be made by railroad corporations, under section 31 of chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and may from time to time make such changes and additions in such form, giving to the corporation six months' notice, before the expiration of any fiscal year, of any such changes and additions which would require any alteration in the method or form of keeping their accounts, and the report by said "Act to authorize the formation of railroad corporations, and to regulate the same," of 1850, required to be made to the State Engineer and Surveyor, shall hereafter be made to such Board of Railroad Commissioners. Until such Board of Railroad Commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations. And the said Board of Railroad Commissioners shall, on or before the fifteenth day of September in each year, furnish a blank form of such returns. When the return received from any corporation is defective, or believed to be erroneous, the Board shall notify the corporation to amend the same within thirty days. The said Board shall prepare such tables and abstracts of all returns as they shall deem expedient, and which shall be contained in their annual report, and their annual report shall be transmitted to the Legislature on or before the second Monday in January, each year, and which annual report shall, among other things, contain an abstract of the proceedings of the Board during the preceding year, and also drafts of bills which have been submitted by the Board to the Legislature, and the reason therefor, and such suggestions as to the workings of the laws of the State, on the subject of railways and transportation, as to the said Board may seem proper and expedient. The originals of the returns as amended, subscribed and sworn to as now provided by law, or as hereafter to be provided by the said Board of Railway Commissioners, shall be preserved in the office of the Board.

**Commissioners' edition of annual report ; how distributed.**

§ 11. There shall be printed, in addition to the regular number prescribed by law, as a public document of the State, 500 copies, to be bound in cloth, of the annual report of Railroad Commissioners, with the returns of the corporations for the use of the said commissioners, and to be distributed by them to such railroad corporations and other bodies of persons interested therein, in the discretion of the said Commissioners.

**Salaries of clerical force ; temporary employment of engineers, accountants and experts ; passes ; State to procure necessary books, etc. ; reimbursement of Commissioners for expenses and disbursements, also for clerks and marshal ; salaries and expenses to be audited by Comptroller ; appropriation.**

§ 12. The annual salary of each Commissioner shall be \$3,000, payable quarterly from the treasury of the State. The annual salary of the chief clerk or secretary

shall be \$3,000, and of the marshal, \$1,500, payable from the treasury of the State. The said Board shall also have power to employ such additional clerical force, not exceeding in number three persons, however, at salaries not to exceed in the aggregate the sum of \$3,000 per annum, as they may find necessary for the purpose of preparing the reports required by this act, and such other clerical duties as may be required of them by said Board. And such Board of Railroad Commissioners may have the power to employ engineers, accountants and other experts, whose services they may deem to be of temporary importance in the conducting of any investigation herein provided. In the discharge of the duties of their office they shall be transported over the several railroads in the State free of charge upon passes signed by the Secretary of State; they may employ and take with them experts or other agents whose services they may deem to be temporarily of importance, and who shall also be transported, while on such duty, free of charge upon passes signed by the Secretary of State; and they shall have procured for them by the State the necessary books, maps and statistics incidentally necessary for the discharge of the duties of their office; and they shall also have reimbursed to them quarterly the expenses and disbursements they may have incurred in traveling, and for the necessary travel expenses and disbursements of their clerks, marshal and of experts; which expenses, however, shall not exceed in the aggregate \$500 a month; and a statement of such expenditures in detail shall accompany the annual report. The salaries and expenses authorized by this act shall be audited and allowed by the Comptroller, and paid in the first place by the State Treasurer upon the order of the Comptroller, out of any unappropriated funds from time to time remaining in the treasury. The sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act. (*Thus amended by chap. 388, Laws of 1883.*)

**Limit of total annual expense to be borne by railroads; apportioned by Comptroller and State Assessors.**

§ 13. The annual total expense of the said Board of Railroad Commissioners, including salaries for Commissioners' clerks and marshal, and additional clerical force, printing of additional copies of report, as provided by section eleven of this act, and all other expenses incident to said Board, excepting only rent of office, shall not exceed the sum of \$50,000, and such expenses shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the Comptroller and State Assessors, who, on or before the first day of July in each year, shall assess upon each of said corporations its just proportion of said expenses, one-half in proportion to its net income for the year next preceding that in which the assessment is made, and one-half in proportion to the length of main track or tracks on road, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations.

See chap. 441, Laws of 1881, at page 419 hereof.

**Right of Commissioners to enter cars, offices and depots; not to solicit appointments, etc.; penalty for violation; not to accept passes or gratuities from railroad companies; applicable to employees; revealing information a misdemeanor.**

§ 14. Said Railroad Commissioners, and either of them, shall have the right in their or his official capacity to enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad company within this State, in the performance of official duties; but said Railroad Commissioners shall not, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person or persons to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such Commissioners, or either of them, nor to any clerk or employee of said Commissioners whatever; neither shall said Commissioners, nor their secretary, clerks, agents, employees or experts accept, receive or request any pass from any railroad in this State for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation, and the request or acceptance by them, or either of them, of any such place or position, pass,

presents, gifts or other gratuity shall work a forfeiture of the office of the said Commissioner or Commissioners, secretary, clerk or clerks, agent or agents, employee or employees, expert or experts, who shall be guilty thereof; and any violation of this section, or any part thereof, shall also be deemed a misdemeanor and punishable as such, and any Commissioner, secretary, clerk, agent, employee or expert who shall secretly reveal any information gained by him from one railroad company to any other railroad company or person shall be guilty of a misdemeanor. (*Thus amended by chap. 338, Laws of 1883.*)

### **Repeal.**

§ 15. All acts and parts of acts inconsistent with the foregoing provisions are hereby repealed.

## **CHAP. 421, LAWS of 1884.**

**AN ACT** in relation to certified copies of documents in the office of the Board of Railroad Commissioners, the fees to be charged therefor, and providing for a seal for the use of the Board.

### **Certified copies evidence.**

SECTION 1. Copies of all official documents, filed or deposited, according to law, in the office of the Board of Railroad Commissioners, when certified by a member of the Board or by its Secretary, in the form of and pursuant to law, shall, in all cases, be evidence equally and in like manner as the originals.

**The Board of Railroad Commissioners shall have an official seal, to be prepared by Secretary of State, to be used on all certified copies.**

§ 2. The Board of Railroad Commissioners shall have an official seal to be prepared by the Secretary of State in accordance with the provisions of "An act to establish the original arms of the State of New York and to provide for the use thereof on the public seals," being chapter one hundred and ninety of the laws of eighteen hundred and eighty-two, and such seal shall thereafter be used upon all certified documents issued from said Board.

### **Fees.**

§ 3. The Board of Railroad Commissioners shall hereafter charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by said Board, ten cents for each folio of one hundred words; for certified copies of official documents filed in said office, fifteen cents for each folio of one hundred words, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by railroads to the Board, fifty cents; for each certified copy of the annual report of the Board, one dollar and fifty cents.

### **Id.**

§ 4. For certified copies of evidence and proceedings before the Board, fifteen cents for each folio of one hundred words.

### **Id.**

§ 5. No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers, for use in their official capacity or for annual reports in the ordinary course of distribution.

**Fees to be paid quarterly, accompanied with a detailed statement, into the State treasury.**

§ 6. All fees charged and collected by the Board belong to the people of this State, and shall be paid quarterly, accompanied with a detailed statement thereof, into the treasury of the State, to the credit of the general fund.

**Repeal.**

§ 7. All acts and parts of acts inconsistent with this act are hereby repealed.

**CHAP 441, LAWS OF 1884.**

**AN ACT** to define the duties of certain officers of the Board of Railroad Commissioners, to regulate the power of issuing subpoenas, and to limit the number of clerks thereof.

**Defining powers and duties of chief clerk or secretary; power to issue subpoenas now vested in chairman of Board of Railroad Commissioners or two Commissioners; proceeding where subpoena is disobeyed; may administer oaths; salary, etc.; to take constitutional oath; when ineligible to hold such position.**

**SECTION 1.** The chief clerk or secretary of the Board of Railroad Commissioners shall keep a full and faithful record of the proceedings of said Board; he shall be the custodian of the records thereof, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and shall be responsible to said Board for the same. Under the direction of said Board he shall be its executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of communication of its decisions, recommendations, orders and requests; and shall perform such other business, as the Board may prescribe. The power to issue subpoenas, heretofore vested in the chief clerk or secretary of said Board, shall hereafter be vested in the chairman of the Board or by two of the members thereof, and if a person who is duly subpoenaed does not obey such subpoena without reasonable cause, or if, when attending or brought before said Board, or a member thereof authorized to examine him, he shall refuse, without reasonable cause, to be examined; or to answer a legal and pertinent question; or to produce a book or paper which he is directed to bring by terms of the subpoena; or to subscribe his deposition after it has been correctly reduced to writing, the Board may take such proceedings as are provided by the Code of Civil Procedure. The secretary shall have power to administer oaths in all cases pertaining to the duties of his office. He shall receive as salary \$1,000 per annum, payable monthly, and shall hold his office at the pleasure of the Board. He shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office, and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold such office. (*Thus amended by chap. 503, Laws of 1886.*)

**Accountant, appointment of; salary; duties; to take constitutional oath.**

§ 2. The Board of Railroad Commissioners may appoint an accountant at a salary not exceeding \$3,000 per annum, payable monthly, who shall be thoroughly skilled in railroad accounting, whose duty it shall be to make, under the directions of the said Board, examinations of the books and accounts of railroad companies and other corporations under the provisions of chapter 353, Laws of 1882. Under the direction of the Board he shall supervise the quarterly and annual reports made by the railroad companies to the Board, collect and compile railroad statistics and perform such other duties as the Board may prescribe. Said accountant shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

**Inspector, appointment of; salary; duties; to take constitutional oath.**

§ 3. The Board of Railroad Commissioners may appoint an inspector, at a salary not exceeding \$3,000 per annum, payable monthly, who shall be a civil engineer and one skilled in railroad affairs, whose duty it shall be to make such inspections of railroads and other matters relating thereto, as directed by the Board and report to it. Said inspector shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

**Clerical force.**

§ 4. The Board of Railroad Commissioners may appoint such additional clerical force as may be necessary for the transaction of business of the Board, provided, however, that the number of such clerks shall not exceed six, and the aggregate salaries thereof shall not exceed \$6,000.

**Comptroller to audit and allow salaries provided for in sections 1, 2, 3 and 4.**

§ 5. The sums of money provided to be paid as salaries in sections 1, 2, 3 and 4 of this act shall be audited and allowed by the Comptroller and paid in the first place by the State Treasurer, upon the warrant of the Comptroller, out of any unappropriated funds remaining in the treasury, and the Comptroller shall reimburse the Treasurer in the sums advanced from the annual appropriation made in conformity with the provisions of chapter 353, Laws of 1892, for the maintenance of the Board of Railroad Commissioners.

**Repeal.**

§ 6. All acts or parts of acts inconsistent with this act are hereby repealed.

**CHAP. 310, LAWS OF 1886.**

**AN ACT** to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

**Duty of Attorney-General.**

SECTION 1. Whenever any corporation organized under the laws of this State shall be annulled and dissolved by an act of the Legislature, it shall be the duty of the Attorney-General immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

**Suit, where to be brought.**

§ 2. Such suit shall be brought in the Supreme Court in the name of the people of the State, in any county which the Attorney-General may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

**Court to appoint receiver.**

§ 3. It shall be the duty of the special term of the Supreme Court in the county designated in such summons and complaint, or of any judge of said court who resides, in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the Legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties to be approved by said court or such judge thereof, to the people of the State in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

**Receiver to make inventory.**

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and

for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

**Notice to creditors; powers and duties of receiver; creditors to present claims.**

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice daily for fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court or such judge thereof will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, off-set or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

**When claim of creditor is debarred; right of creditor to appeal; sale of property; allowance to receiver; distribution of assets.**

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for.

The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof, shall allow to the receiver two per cent upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas, and to the Attorney-General, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deductions above provided for in case of an appeal, pro rata, or in full if such residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

**Proceedings not to be stayed.**

§ 7. No issue raised by answer, or demurrer, or otherwise to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court or a judge thereof.

**Discharge of receiver.**

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so discharged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

**Subpoenas, by whom issued; receiver may administer oaths; false swearing, perjury.**

§ 9. It shall be the duty of the clerk of the county in which suit is brought, to issue, upon the request of the receiver, subpoenas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpoenas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpoenas shall be a contempt of court, and shall be punished in like manner as other contempts of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

**Leave to sue receiver, how and where obtainable.**

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the Supreme Court in the county in which such action was brought, and shall not be made to any other court, or to the Supreme Court in any other county, and shall not be granted except upon eight days' notice to the Attorney-General of the time and place of making such application. In any action hereafter brought or now pending by the Attorney-General, to close up, determine or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the Supreme Court at General Term may be reviewed upon appeal to the Court of Appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

**Repeal, etc.**

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

**CHAP. 378, LAWS OF 1883.**

**AN ACT in relation to receivers of corporations.**

**Application for appointment of receiver, where made.**

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district, and any order appointing a receiver, otherwise made, shall be void.

**Compensation.**

§ 2. Every receiver shall be allowed to receive as a compensation for his services as such receiver, five per cent for the first \$100,000 actually received and paid out, and two and one-half per cent on all sums received and paid out in excess of the said \$100,000.

**Order appointing receiver to designate place of deposit.**

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the Attorney-General.

**Duties of receiver.**

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the Supreme Court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of said six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the Attorney-General, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowances until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by the order of the court duly entered; and any such order shall be the subject of review by the general term and the Court of Appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the Attorney-General shall be given eight days' notice in writing, and the Attorney-General shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 40, Laws of 1885.*)

**Intervenor to pay his own legal expenses; no allowance to be made for costs to attorney.**

§ 5. In case of the intervention of any policy-holder or depositor, by permission of the court, such policy-holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy-holder or depositor.

**Receiver to close up affairs within one year.**

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act.



unless the court, upon application by said receiver, and upon due notice to the Attorney-General, shall give additional time for that purpose.

**Attorney-General may apply to have receiver removed; appeal.**

§ 7. The Attorney-General may, at any time he deems that the interests of the stockholders, creditors, policy-holders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the Supreme Court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

**Copies of all papers to be served on Attorney-General.**

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purpose, shall, in all cases, be served on the Attorney-General, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order, unless the Attorney-General shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the Attorney-General, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the Attorney-General.

**When applications under this act be made; venue changed.**

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corporation was located; but the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

**Preference on calendar.**

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

**Repeal.**

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

**CHAP. 275, LAWS OF 1886.**

**AN ACT to amend chapter 378, Laws of 1883, entitled "An act in relation to receivers of corporations."**

SECTION 1. Section 2, chapter 378, Laws of 1883, is hereby amended so as to read as follows:

**Compensation.**

§ 2. Every receiver shall be allowed to receive, as compensation for his service as such receiver, five per centum for the first \$100,000 received and paid out, and 75 and a half per centum on all sums received and paid out in excess of the said \$100,000.

But no receiver shall be allowed or shall receive, from such per centages or otherwise, for his said services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation shall be divided between such receivers.

**CHAP. 285, LAWS OF 1884.**

AN ACT to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the Superintendent of the Insurance Department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such Superintendent by such company for the security of policy-holders.

**Where receivers have or shall be appointed for any corporation other than insurance companies on application by Attorney-General, property to vest in receiver ; proviso.**

**SECTION 1.** In all cases where receivers have been or shall be appointed for any corporation of this State other than an insurance company, on application by the Attorney-General, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in and held by such receiver; provided, however, that such transfer shall only be made when directed by an order of the Supreme Court, due notice of the application for such order having been made on the Attorney-General, and the custodian of the funds, securities or property.

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**As to the general subject of taxation of real estate, etc., see chapter 13, part 1, of Revised Statutes. Also, chap. 411, Laws of 1885.**

**CHAP. 361, LAWS OF 1881.**

AN ACT to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations."

**Certain officers of company to make annual report to Comptroller on or before fifteenth of November; where dividend not declared, stock to be estimated and declared; certificate to be sent Comptroller; appeals.**

**SECTION 1.** Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 3 of this act, to make report, in writing, to the Comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint-stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of such company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, as its actual value in cash—not less, however, than the average price which said stock sold for during said year, and when the same shall have

been so truly estimated and appraised, they shall forthwith forward to the Comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same; provided, that if the Comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the State thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the Secretary of State, Attorney-General and State Treasurer, which board, on such appeal, shall affirm or correct the account so settled by the Comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the Comptroller, be deposited with the State Treasurer.

**Comptroller to add ten per cent in case of failure to make report; proviso.**

§ 2. If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the Comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirmation, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the Comptroller of the State to add ten per centum to the tax of said corporation, company or association for each and every year for which such report or certificate of appraisement and oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth section of this act for one year, the Comptroller shall report the fact to the Governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the Attorney-General to take proceedings in the name of the people of this State, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

**Annual tax; how computed.**

§ 3. Every corporation, joint-stock company or association whatever, now or here after incorporated or organized under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, except savings banks and institutions for savings, life insurance companies, banks and foreign insurance companies, and manufacturing or mining corporations carrying on manufacture of mining ores within this State, which exception shall not be taken to include gas companies or trust companies, shall be subject to and pay a tax as a tax upon its corporate franchise or business into the treasury of the State annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividend so made or declared; or if no dividends be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock—as, for instance, common and preferred stock, and upon one of said stocks a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate

of one quarter mill for each one per centum of dividend made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto tax shall be charged at the rate of one and one-half mills upon each dollar of valuation made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. (*Thus amended by chap. 359, Laws of 1885.*)

**When payable.**

§ 4. It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the State within fifteen days after the first day of January in each and every year.

§ 5. Relates only to insurance companies.

**Tax on railroad, steamboat and other companies; rate of tax.**

§ 6. In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incorporated or organized by or under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe line or transportation route or line or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other State, and doing business in this State, and every express company or association, palace car or sleeping car company or association incorporated or unincorporated, doing business in this State, shall pay to the State Treasurer for the use of the State, as a tax upon its corporate franchise or business in this State, a tax at the rate of five-tenths of one per centum upon the gross earnings in this State of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this State.

**When payable; report of gross earnings; report for six months ending June 30, 1881; ten per cent to be added in case of neglect.**

§ 7. The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company or association shall neglect or refuse for a period of thirty days after any tax imposed by section 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the State as other taxes are recoverable by law from such corporation, joint-stock company or association.

**Exempt from taxation for State purposes ; proviso.**

§ 8. The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for State purposes, except upon their real estate and as herein provided ; but they shall in all other respects be liable to assessment and taxation as heretofore.

**Tax, application of.**

§ 9. The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the State, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be sued for in the name of the people of the State, and recovered in any court of competent jurisdiction, in an action to be brought by the Attorney-General at the instance of the Comptroller.

**Saving section.**

§ 10. All obligations, liabilities and taxes heretofore incurred or imposed under said act, chapter 542 of Laws of 1880, are saved and shall be enforced as if the said act had not been hereby amended.

**Amount of capital stock employed in this State to be basis of tax ; if dissatisfied, Comptroller may fix them out.**

§ 11. The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this State. In making to the Comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint-stock company or association provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be, to state specifically the amount of capital stock employed within this State, of such corporation, joint-stock company or association. Whenever the Comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association whose capital is only partially employed within this State, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this State, and to settle an account for the taxes and penalties due the State thereon. (*Added by chap. 501, Laws of 1885.*)

**In case of failure to make report, Comptroller may examine books and records, and make report.**

§ 12. Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the Comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the Comptroller, the Comptroller is authorized to examine, or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle an account for said tax and penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

**Comptroller may issue subpoenas and examine witnesses ; penalty for failure to obey subpoena.**

§ 13. Whenever the Comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpoena in proper form, commanding such person or officer to appear before him

or some person designated as commissioner by him by an appointment in writing, filed in the office of such Comptroller, at a time and at the place where the principal office of such corporation is situated within this State in such subpoena specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this State. Such subpoena shall be served upon the person named by showing him the original subpoena and delivering to and leaving with him at the same time, a copy thereof. The Comptroller or the commissioner so designated by him as aforesaid, may administer oaths to such persons as he may desire to examine, so brought before him by subpoena or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company of association as aforesaid. Whenever any person duly subpoenaed to appear and give evidence as aforesaid, or to produce any books or papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpoena, or shall refuse to testify before said Comptroller or the commissioner so designated by him, or to answer any proper and pertinent question, he shall be deemed in contempt, and thereupon any justice of the Supreme Court of the judicial district within which the principal office of such corporation within this State is situated, shall, upon the motion of the Comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein, the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpoenaed to appear and give evidence as is prescribed in title 3, chapter 17 of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap. 501, Laws of 1885.*)

**Comptroller to settle and adjust all accounts against corporations, for taxes and penalties since May 12, 1882; proviso as to payments made before August 1, 1885.**

§ 14. The Comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act, since the 12th day of May A. D., 1882, by taking as a basis for taxation the capital employed within the State by such corporation, joint-stock company or association. Provided, however, that such corporation, joint-stock company or association shall not be entitled to the benefit of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of the taxes so settled, before the 1st day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the Attorney-General, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this State, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D., 1882, and which are still due and unpaid, may, at any time prior to the 1st day of August 1885, pay to the State treasurer, for the use of the State, a full discharge of the same, such sum of money as shall be fixed by the Comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the State. Provided, that this section shall not apply to the

case of any tax for which suit may have heretofore been brought by the Attorney-General, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap. 501, Laws of 1885.*)

#### **Interest.**

§ 15. All accounts hereafter settled by the Comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for until full payment thereof shall be made. (*Added by chap. 501, Laws of 1885.*)

#### **Comptroller to give notice before making settlement of taxes.**

§ 16. It shall be the duty of the Comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice hereof, in writing, to such person, partnership, corporation, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

#### **Provisions in relation to review of Comptroller; determination by writ of certiorari.**

§ 17. No writ of certiorari to review the determination and settlement of the Comptroller as to the amount of capital used within the State by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor be made within thirty days after service upon such corporation, joint-stock company or association by the Comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefore is to be made, including notice of motion, shall have been served upon the Comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, have deposited with the State Treasurer the full amount of taxes, penalties and charges so settled and adjusted by the Comptroller, and file with him an undertaking in such amount and with sufficient sureties as shall be approved by one of the justices of the Supreme Court of this State, to the effect that if said writ be vacated and the determination of the Comptroller sustained, the applicant for the writ will make payment of all cost and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap. 501, Laws of 1885.*)

#### **Comptroller may issue warrant for collection after thirty days.**

§ 18. After the expiration of thirty days from the service by the Comptroller of notice of the settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the State Treasurer of the amount of the said settlement, together with the undertaking, as provided for in this act, shall not then have been made, it shall be lawful for the Comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county of this State, commanding him to levy upon and sell the goods and chattels, lands and tenements of the said corporation, joint-stock company or association found within the said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing such warrant, and to return the said warrant to the Comptroller, and pay to the State Treasurer, the money which shall be collected by virtue thereof, by a certain time therein to be specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap. 501, Laws of 1885.*)

**CHAP. 143, LAWS OF 1886.**

**AN ACT to tax stock corporations for the privilege of organization.**

**State tax on capital stock.**

**SECTION 1.** Every corporation, joint-stock company or association incorporated by or under any general or special law of this State, having capital stock divided into shares, shall pay to the State Treasurer, for the use of the State, a tax of one-eighth of one per centum upon the amount of capital stock which said corporation, joint-stock company or association is authorized to have, and a like tax upon any subsequent increase thereof. The said tax shall be due and payable upon the incorporation of said corporation, joint-stock company or association, or upon the increase of the capital thereof; and no such corporation, joint-stock company or association shall have or exercise any corporate powers until the said tax shall have been paid. And the Secretary of State and any county clerk shall not file any certificate of incorporation or articles of association, or certify or give any certificate to any such corporation, joint-stock company or association, until he is satisfied that the said tax has been paid to the State Treasurer. And no such company incorporated by any special act of the Legislature shall go into operation, or exercise any corporate powers or privileges until said tax has been paid as aforesaid. But this act shall not apply to literary, scientific, medical or religious corporations, or corporations organized under the banking laws of this State or under chapter one hundred and twenty-two of the Laws of eighteen hundred and fifty-one, entitled "An act for incorporation of building, mutual loan and accumulating fund associations," and the acts amendatory thereof. (*Thus amended by chap. 284, Laws of 1887.*)

**Applicable to general fund.**

**§ 2.** The taxes imposed by this act and the revenue derived therefrom, shall be applicable to the general fund and for the payment of those claims and demands which shall constitute a lawful charge upon the fund.

**CHAP. 266, LAWS OF 1886.**

**AN ACT to provide for the more certain recovery of State taxes from delinquent associations, corporations and joint-stock companies.**

**Recovery of delinquent taxes; provisions as to prosecution of suits for such taxes.**

**SECTION 1.** For the better enforcement of chapter five hundred and forty-two, of the Laws of eighteen hundred and eighty and the acts amendatory thereof, it shall be lawful for any person having knowledge of the evasion of taxation under said acts by any association, corporation or joint-stock company liable to taxation thereunder, to report such fact to the Comptroller, together with such information as may be in his possession as may lead to the recovery of such taxes from said association, corporation or joint-stock company; and whenever in the opinion of the Attorney-General or Comptroller the interests of the State require it, either of them is hereby authorized to employ such person so reporting such evasion to assist in the collection and preparation of evidence and in the prosecution and trial of suits for such taxes; and so much of the sum collected from such delinquent association, corporation or joint-stock company, by reason of such report or such services, as shall have been agreed upon by such person and the Attorney-General or Comptroller as a compensation therefor shall be paid to such person, provided that the sum so paid shall not exceed ten per centum of the amount so collected, and provided further, that nothing whatever shall be paid to such person for such purpose unless there shall be recovery of taxes from such delinquent association, corporation or joint-stock company by reason of such report or such services.



**CHAP. 675, LAWS OF 1881.**

**AN ACT to facilitate the payment of school taxes by railroad companies.**

**Duty of school collector to deliver to county treasurer certain statement ;  
duty of county treasurer in the premises.**

SECTION 1. It shall be the duty of the school collector in each school district in this State, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax assessment-roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

**Time in which tax may be paid with one per cent fees.**

§ 2. Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this State, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of the tax so levied or assessed against it by such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and give proper receipt therefor.

**If tax not paid within thirty days, duty of collector to collect ; limitation.**

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay such tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon ; but no school collector shall collect by distress and sale any tax levied and assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

**Tax to be placed to credit of school district ; paid to collector on demand ;  
fees to go to collector on demand.**

§ 4. The several amounts of tax received by any county treasurer in this State, under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

**Tax may be paid to collector direct.**

§ 5. Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

**CHAP. 110, LAWS OF 1858.**

**AN ACT** to repeal parts of an act to amend chapter 13, part 1, of the Revised Statutes, entitled of the assessment and collection of taxes, and chapter 176 of the Laws of 1851, passed April 15, 1857..

**Repeal.**

SECTION 1. Sections 1 and 6 of chapter 536 of the Laws of 1857, are repealed, and that part of section 2 of the same chapter, which requires special notice to be given in case an assessment-roll includes property belonging to a railroad corporation, is also repealed.

**CHAP. 694, LAWS OF 1867.**

**AN ACT** in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

**Duty of town assessors.**

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by chap. 414, Laws of 1884.*)

**Apportionment.**

§ 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap. 414, Laws of 1884.*)

**When assessors neglect to make apportionment.**

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by chap. 340, Laws of 1885.*)

**Town clerk to furnish certified statement when requested.**

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to such district, and the name of the company to which the same relates.

**When alteration is made in school district.**

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company, the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap. 340, Laws of 1885.*)

**CHAP. 506, LAWS OF 1870.**

**AN ACT** to facilitate the payment of taxes by railroad companies.

**Annual statement to be delivered by clerks of the several boards of supervisors to county treasurer.**

SECTION 1. It shall be the duty of the clerk of the board of supervisors of the several counties of this State (except New York and Kings counties), within five days after the

making out or issuing of the annual tax warrants by the board of supervisors of their respective counties, to prepare and deliver to the county treasurer a statement showing the title of all railroad corporations in such county, as appears on the last assessment-roll of the towns or cities in such county, the valuation of the property, real and personal, of such corporation in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in their county.

**Railroad companies may pay tax to county treasurer; fees of treasurer.**

§ 2. Any railroad company heretofore organized under the laws of this State, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

**County treasurer to notify collector of non-payment of tax; duty of collector.**

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

**County treasurer to credit taxes; collector to be credited with fees; surplus to be paid to supervisor.**

§ 4. The several amounts of tax so received by the county treasurer, of and from railroad companies, shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

**Railroad company may pay tax to collector; proviso.**

§ 5. Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to repeal or in any manner interfere with the provisions of chapter 907 of the Session Laws of 1869.

**CHAP. 344, LAWS OF 1877.**

AN ACT to authorize railroad corporations to pay commutation money for highway labor to the commissioners of highways of town.

**Railroad corporation may commute; money how applied.**

SECTION 1. Whenever any railroad corporation assessed in any town or road district for highway labor shall elect to commute therefor, as provided by law, such corporation shall pay the commutation money to the commissioner or commissioners of highways of such town, and such moneys shall be applied and expended in the improvement of roads and buildings and maintenance of bridges of such towns. (*Thus amended, Laws of 1878, chap. 44.*)

**Not applicable to incorporated villages when separate road district; proviso.**

§ 2. This act shall not apply to incorporated villages which constitute a separate road district, nor shall it have the effect to repeal or modify chapter 66 of the Laws of 1872.

## BONDING OF TOWNS AND RAILROAD AID DEBTS.

Several statutes of this State relative to the bonding of towns, etc., are omitted because by article VIII, section 11 of the Constitution of the State of New York, adopted November 3, 1874, and November 4, 1884, they are practically abrogated, as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882.

### Article VIII, Sec. 11, Constitution of the State of New York.

No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owners of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants; or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceed ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amount actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount thereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

### CHAP. 585, LAWS OF 1875.

**AN ACT to provide for the sale of stock and bonds of bankrupt railroad companies by municipal corporations holding the same, and for the disposition of the proceeds of such stock or bonds.**

#### **Sale of stock or bonds authorized.**

**SECTION 1.** Any municipal corporation within this State holding and owning any stock or mortgage bonds of any railroad company in this State which shall have been adjudicated bankrupt, or the property of which shall be in the possession of a receiver appointed under the laws of this State, or the railroad or other property of which shall have been sold, or shall have been deemed to be sold, by virtue of any decree of foreclosure of any mortgage executed by such railroad company, is hereby authorized to sell and dispose of such stock or mortgage bonds in the manner hereinafter provided.

#### **When commissioners to give notice of sale; what notice to contain.**

§ 2. The commissioner or commissioners of any municipal corporation within this State which shall have issued its bonds in aid of the construction of the railroad of any railroad company in this State within the provisions of section one of this act, appointed to issue such bonds of any municipal corporation under any laws of this State, or the successor or successors in office of any such commissioner or commissioners, on the application of the mayor and common council of any city, or of the board of trustees of any incorporated village, or of the supervisor of any town within this State, the bonds

of which shall have been issued in aid of the construction of any such railroad, as aforesaid, shall forthwith publish a notice of the sale at public auction of the stock or mortgage bonds of any such railroad company held and owned by such municipal corporation as aforesaid, at such public place within the limits of such municipal corporation as such commissioner or commissioners may specify in such notice. The said notice shall specify the amount of such stock or bonds so held by said municipal corporation and the number of shares of such stock, and the amount of such bonds, respectively, and the name of the railroad company by which the same were issued, and shall be published in two newspapers published in the county wherein such railroad may be situated, or if it extends through or into more than one county, then in two newspapers published in each county wherein such railroad may be situated, at least once in each week after the first publication of such notice, until the day of sale, which shall be not less than ten nor more than twenty days after the first publication of the said notice.

**Sale, how and when made.**

§ 3. On the day and at the place of sale specified in the notice aforesaid, the said commissioner or commissioners shall sell at public auction, to the highest bidder for cash, all the stock or mortgage bonds of any such railroad company so held and owned by such municipal corporation as aforesaid, in such parcel or parcels as in their discretion shall be most advantageous to the said municipal corporation, and shall deliver the same to the purchaser or purchasers thereof, and shall execute to such purchaser or purchasers any transfer or assignment of such stock or bonds necessary to transfer the same; and thereupon the purchaser or purchasers of such stock or bonds shall be vested with all the right, title and interest of said municipal corporation, and of the said commissioner or commissioners in and to the stock or bonds so sold as aforesaid.

**Proceeds of sale; disposition of.**

§ 4. All moneys received by commissioner or commissioners for any stock or mortgage bonds sold pursuant to the provisions of this act shall be immediately paid over to the treasurer or other officer of such municipal corporation having charge of its funds, in case of a town to the supervisor thereof for the use of such municipal corporation, and, after paying the expenses of such sale, shall be applied by such municipal corporation to the payment and extinguishment of its bonds issued in aid of said railroad company, and to no other purpose whatever; provided, that in case the municipal bonds so issued shall have been all paid before such sale, or in case the moneys realized from such sale shall be more than sufficient to pay off the municipal bonds issued as aforesaid in aid of such railroad corporation then outstanding, the proceeds of such railroad stock or bonds, or any such balance thereof, shall be applied by such municipal corporation to the payment of such other debt thereof, or to defray such other lawful charge thereupon as the common council of any such city, or the board of trustees of any such incorporated village, or the qualified voters of any such town, in town meeting may direct.

**Repeal.**

§ 5. All acts and parts of acts, so far as they are inconsistent herewith, are hereby repealed.

**CHAP. 522, LAWS OF 1881.**

**AN ACT** in relation to the bonded indebtedness of villages, cities, towns and counties in this State created in aid of railroads.

**Present bonded indebtedness may be paid by issue of new bonds; proviso as to rate of interest; cancellation of bonds taken up; when new bonds to be payable.**

**SECTION 1.** The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amount by the board of trustees, mayor and common council, town board, board of supervisors or supervisor, or railroad commissioners, or officer or officers, now having in charge according to law the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town or county; provided, however, that such new bonds shall be issued only when, existing bonds can be retired by the substitution therefor of such new bonds or can be paid up by money realized on the sale of new bonds; and provided further that such new bonds

shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually. All existing bonds taken up by the substitution of such new bonds or paid under the provisions of this act shall be immediately canceled, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing the same, not less than two years or more than thirty years from their date; and shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of money to pay existing bonds; and shall be issued in no case at less than for their par value. (*Thus amended, chap. 453, Laws of 1883.*)

**New bonds to be valid, recital in same.**

§ 2. The bonds issued under the provisions of this act when substituted or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bonds shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

**New bonds exempt from taxation.**

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes until the period when they are made payable.

**Commissioners, supervisors and financial officers required to report annually; to whom to report, and what.**

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the moneys received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen or common council of cities, as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest on said bonds.

**Tax to pay bonds.**

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the boards of aldermen, and the common councils of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

**CHAP. 316, LAWS OF 1886.**

**AN ACT** in relation to the bonded indebtedness of villages, cities, towns and counties in this State, and to provide means for the payment and refunding thereof.

**Bonded indebtedness, how paid up or retired; rate of interest on new bonds; old bonds to be canceled.**

**SECTION 1.** The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amounts by the board of trustees, mayor or common council, town board, board of supervisors or supervisor, or railroad commissioners or officer, or officers now having in charge according to law the payment of interest or principal on bonds herein proposed to be paid or retired respectively of such village, city, town or county; provided, however, that such new bonds shall be issued only when existing bonds can be retired by the substitution therefor of such new bonds or can be

'paid up by money realized on the sale of such new bonds, but where the said bonded indebtedness shall become due within two years from the issue of the said new bonds, then such new bonds may be issued or sold to provide money in advance, with which to pay up such existing bonds, when they shall become due and payable; and provided further, that such new bonds shall bear interest at a rate not exceeding four per centum per annum, payable semi-annually or quarterly. All existing bonds taken up by the substitution of such new bonds, or paid under the provisions of this act, and all new bonds and coupons, when paid up as herein provided, shall be immediately canceled as now provided by law, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing the same, not less than one year nor more than forty years from their date; and shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of the money to pay existing bonds; and an amount not less than two per cent of the whole amount of said bonds so issued shall be made payable and shall be paid and retired, each and every year after the issue thereof, and said bonds shall be issued in no case at less than for their par value.

#### **Validity.**

§ 2. The bonds issued under the provisions of this act when submitted\* or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bond shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

#### **Exempt from taxation.**

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes, until the period when they are made payable.

#### **Duty of railroad commissioners.**

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the money received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages, and the mayor and board of aldermen or common council of cities as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest, on said bonds.

#### **Duty of boards of supervisors, common councils, etc.**

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the board of aldermen and the common council of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

#### **Commissioners to give bonds.**

§ 6. Before the said commissioners or either of them shall enter upon the discharge of their duties under this act, they shall jointly and severally with two or more sureties execute to the supervisor of said town or city a bond in the penal sum equal to one-fourth the amount to be issued by said town or city under and by virtue of this act, conditioned for the faithful discharge of their duties as commissioners under this act and existing laws, and for the just and honest application by them of all moneys, or bonds issued by them or coming into their hands.

\* So in the original.

as such commissioners. The sufficiency of said sureties shall be determined by the supervisor of said town or city, or the county judge of the county wherein said town is situated, or any justice of the Supreme Court, and shall be indorsed on said bonds. The said bond shall immediately thereafter be deposited with the supervisor or supervisors of said town or city, to be collected by him or his successors in office for the use and benefit of said town or city, in case the said commissioners, or either of them, are guilty of such a breach of duty or malfeasance in office as to render said bonds collectible; and it is further provided, that any willful appropriation or embezzlement or wrongful conversion of any of said town bonds, or the moneys arising from the same, or the moneys to be raised by a sale thereof, as provided by this act or the moneys to be raised by tax as aforesaid, to an amount exceeding \$1,000, shall be a felony punishable by imprisonment in the State prison for a term not exceeding ten years.

**CHAP. 421, LAWS OF 1875.**

**AN ACT** to authorize towns, cities and villages to pay their bonds, issued for railroad purposes, by exchanging therefor their railroad stock or bonds, and to exchange their stock of any railroad corporation for the bonds of such corporation.

**Town, city or village may exchange its bonds for railroad bonds or stocks; cancellation of bonds.**

**SECTION 1.** It shall be lawful for any town, city or village to exchange the bonds and stock of any railroad corporation for and in payment of the bonds of any such town, city or village, heretofore issued in aid of any such railroad corporation, and it shall be lawful for any town, city or village to exchange the stock of any railroad corporation for the bonds of such corporation; and such exchange may be made by the officers of such town, city or village having the lawful charge and custody of such railroad stock and bonds, but the same shall not be thus exchanged for less than the par value thereof; and when any such exchange shall be made, report thereof shall be made, by the officers making the same, to the then next meeting of the board of auditors of their town, the common council of their city, or the board of trustees of their village, and the town, city or village bonds obtained by such exchange shall thereupon be canceled.

**CHAP. 124, LAWS OF 1883.**

**AN ACT** to amend chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads."

**Indebtedness may be paid by issue of new bonds; proviso; existing bonds to be canceled; construction of act; new bonds when to be made payable.**

**SECTION 1.** Section 1 of chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads," is hereby amended so as to read as follows:

§ 1. The present bonded indebtedness of any village, city, town or county in this State, which was created to aid in the construction of any railroad, or which was created in the renewal or extension of any such indebtedness, or of any part thereof, may be paid up or retired, in whole or in part, whether due or to fall due by the issue of a new bond or bonds by the board of trustees, mayor and common council, town board, board of supervisors, or supervisor or railroad commissioners, or officer or officers now having in charge, according to law, the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town or county; provided, however, that such new bond or bonds shall be issued only when the existing bond or bonds can be retired by the substitution therefor of such new bond or bonds, or can be paid up by money realized on the sale of such new bond or bonds; and provided, further, that such new bond or bonds shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually. Any existing bond or bonds taken up by the substitution of such new bond or bonds, or paid under the provisions of this act, shall be immediately canceled, and a certificate executed officially by the officer or



officers issuing such new bond or bonds shall be forthwith made and filed by him or them in the county clerk's office of the proper county, which shall state the amount of the existing bond or bonds so canceled, and of the new bond or bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bond or bonds issued under the provisions of this act shall be made payable at any period deemed advisable by the officer or officers issuing the same, not less than two years nor more than thirty years from their date, and shall bear date and draw interest from the date of the payment of the existing bond or bonds, or the receipt of money to pay the existing bond or bonds; and shall be issued in no case at less than their par value. (*See, however, section 1, chap. 522, Laws of 1881, as amended by chap. 453, Laws of 1883, page 436 hereof.*)

#### CHAP. 278, LAWS OF 1886.

**AN ACT** to authorize railroad commissioners to issue town bonds in place of bonds lost or destroyed.

**New bonds may be issued in lieu of those lost or destroyed; bond of indemnity requisite.**

SECTION 1. The railroad commissioners of any of the towns in this State, which have heretofore issued its bonds in aid of the construction of any railroad, which bonds, or any of which, shall have been lost or destroyed before the same shall have become due, are hereby authorized to issue new bonds of such town in the place and stead thereof, under their hand and seal, for the amount, at the same rate of interest, and to become due at the same time as such lost or destroyed bond or bonds, and deliver the same to the owner of such lost or destroyed bond or bonds, upon such owner furnishing to such commissioners satisfactory proof, by affidavit, of such ownership, and of the loss or destruction of such bond or bonds, and filing with said commissioners a sufficient bond of indemnity, with at least two sureties, to be approved by said commissioner, and by the supervisor of the town, and by the county judge of the county in double the amount of such bonds so to be issued.

#### **Contents of new bond.**

§ 2. The new bond or bonds so issued shall state upon the face thereof the denomination and number of the bonds in the place and stead of which they are issued, which said bonds shall be signed by the said railroad commissioners, and the coupons attached thereto, for interest, shall be signed by one of said commissioners, and said bonds countersigned by the town clerk of the town, and registered in the town clerk's office of such town in the record thereof.

#### **Duty of railroad commissioners in the premises.**

§ 3. It shall be the duty of the railroad commissioners to cause any such bond of indemnity, taken by them as provided in section one of this act, with their approval indorsed thereon, to be filed with the clerk of the county in which such town is situated, and the proofs of ownership, loss or destruction, to be filed in the office of the clerk of such town.

#### CHAP. 349, LAWS OF 1877.

**AN ACT** to provide for the payment of bonds issued by municipal corporations under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the information of railroad corporations and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof.

#### **Commissioners to report annually bonded indebtedness.**

SECTION 1. It shall be the duty of the commissioners appointed under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to

authorize the formation of railroad companies, and to regulate the same," passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof, to report annually the total amount of bonds issued under said chapter 907, Laws of 1869, and the acts amendatory thereof, by the town, city or village represented by such commissioners; the date and time when the principal of said bonds will become due, the rate and times of payment of interest thereon, the amount of such principal or interest paid, the amount of said principal or interest due and unpaid and to become due before the annual tax levy and collection of tax for the year next succeeding, and the amount in their hands applicable to the payment of the principal of said bonds or the interest thereon.

**Form and execution of report; to be delivered to supervisors.**

§ 2. Such report shall be in writing, signed by the said commissioners, or a majority of them, and there shall be affixed to said report an affidavit of at least one of the commissioners that such report is in all respects true and correct. The commissioners shall deliver said report to the board of supervisors of the county within three days after the commencement of the annual meeting of said board of supervisors.

**Provisions for payment; moneys, to whom to be paid; bond of commissioners, renewal of.**

§ 3. It shall be the duty of the board of supervisors, at their annual meeting, when such report is received, to cause to be levied and raised by tax, on the taxable property of said town, city or village, the amount necessary to pay the principal and interest due and to become due at any time prior to the annual tax levy and collection of tax for the year next succeeding, as shown by said report, after deducting moneys on hand for the purpose. The amount so levied and raised by tax, when so collected, shall be paid over to the said commissioners, to be by them applied to the purpose for which it was so collected. And all money now in the hands of the supervisor of any town, or officer of any city or village, applicable to the payment of the principal of said bonds, or interest thereon, shall be, on demand, paid to such commissioners, and any money hereafter raised under the provisions of the act hereby amended, which by law is to be applied to the payment of said bonds, or interest thereon, shall, in like manner, be paid to said commissioners. But before any money shall be so paid to such commissioners, they shall severally execute to the town, city or village, and deliver to the town clerks of towns, or the clerks of cities or villages, a bond with two or more sureties in double the amount of the money to be so received by them, as near as can be ascertained, conditioned for the proper and due disbursement of such money, and the proper accounting therefor, which bond shall be first approved by the supervisor, or the county judge, and by the mayor or president of cities or villages, and said bond shall be renewed annually.

**Application of moneys received by commissioners; cancellation of bonds; commissioners to report to town auditors, etc., annually; duplicate to be filed; etc.; indorsement by town officers, etc.; deposit of report and bonds; acts not applicable to certain localities.**

§ 4. It shall be the duty of said commissioners to pay the principal and interest of said bonds at the maturity thereof, and on making such payments the bond or interest coupons paid shall be canceled by said commissioners by cutting out a portion of said bonds or coupons; and a full record of all bonds and interest coupons paid and canceled shall be kept by said commissioners, which record shall be at all times open to the inspection of the supervisor, members of the board of town auditors and justices of the peace of towns, or the members of common councils or trustees of cities or villages; and said commissioners shall report in writing to the board of town auditors of towns, at their annual meeting, and to the common council or trustees of cities or villages, on the first day of April of each year, the date, number and amount of all bonds and interest coupons paid by them and canceled during the past year, and since their last report, and shall, at the same time, produce and deliver to the said town auditors, common council or trustees, the bonds and interest coupons canceled by them, taking a receipt therefor, which shall set forth the date, number and amount of each bond or

coupon. Said commissioners, at the time of making such report, shall also file with the town clerk of towns, and clerk of cities and villages, a duplicate thereof. The said town auditors and the common council or trustees, as the case may be, shall indorse upon the report so received from the commissioners, that the bonds and interest coupons mentioned therein, duly canceled, were received by them from the commissioners, if such is the case, and if all or any of them are not so received, so state in the indorsement. They shall then deposit said canceled bonds and coupons with said report, in the office of the clerk of the county for safe-keeping. Nothing in this act contained shall in any manner apply to or affect the town of Orleans, in the county of Jefferson, or any officer thereof, or any money raised by tax on the property therein, or to any bonds except such as were given under the act mentioned in the foregoing title.

#### **Limitation.**

§ 5. The provisions of this act shall not apply to the counties of Oswego, Madison, Erie, Orleans, Niagara and Genesee.

### **CHAP. 84, LAWS OF 1871.**

**AN ACT** to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

#### **Railroad and other corporate bonds; how made non-negotiable.**

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this State, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

#### **Transfers; how made.**

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

### **CHAP. 595, LAWS OF 1873.**

**AN ACT** relative to certain negotiable corporate bonds and obligations.

#### **How owner may make bonds non-negotiable.**

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this State, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

#### **How transferred after such indorsement.**

§ 2. The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

#### **The provisions of this act to apply to interest coupons.**

§ 3. The provisions of this act shall apply to all interest coupons accompanying any corporal or municipal bond or obligation payable in this State.

#### **Repeal.**

§ 4. So much of chapter 84 of the Laws of 1871, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

CHAP. 160, LAWS of 1838.

AN ACT to punish willful injuries to railroads.

**Puni shmen.**

SECTION 1. Every person who shall willfully, with malicious intent, remove, break, displace, throw down or destroy any iron, wooden or other rail, or any branches or branchways, or any part of the tracks, or any bridge, viaduct, culvert, embankment or other fixture, or any part thereof, attached to or connected with such tracks of any railroad in this State now in operation, or which shall hereafter be put in operation, or who shall willfully, with like malicious intent, place any obstructions upon the rails or tracks of such railroad, shall, upon conviction, be punished by imprisonment in the State prison not exceeding five years, or in a county jail not less than six months.

**Excepting in cases of death.**

§ 2. The preceding section shall not be so construed as to extend to cases where death to a human being shall result from the commission of either of the offenses mentioned in said section.

(§ 3. repeals chapter 187, Laws of 1834.)

CHAP. 185, LAWS OF 1857.

AN ACT to prevent extortion by railroad companies.

**Penalty for taking excess of fare.**

SECTION 1. Any railroad company which shall ask and receive a greater rate of fare than that allowed by law shall forfeit \$50, which sum may be recovered, together with the excess so received, by the party paying the same; but it shall be lawful, and not construed as extortion, for any railroad company to take the legal rate or fare for one mile for any fractional distance less than a mile; and every action brought to recover said \$50 and excess of fare shall be brought within one year after the accruing of the cause of action. But it shall be a defense in any such action if the railroad company shall show to the satisfaction of the court that such overcharge shall have been made through inadvertence or mistake not amounting to gross negligence. (*Thus amended, Laws of 1886, chap. 415.*)

CHAP. 346, LAWS OF 1863.

AN ACT empowering railroad companies to employ police force.

**Appointment of policemen.**

SECTION 1. Any railroad corporation on which road steam is used as the motive power, and any steamboat company may apply to the Governor to commission such person or persons as the said corporation may designate, to act as policemen for said corporation; but no more than one policeman shall be appointed at any one station of such company. (*Thus amended, Laws 1866, chap. 259.*)

**Number.**

§ 2. The Governor, upon such application, may appoint such persons or so many of them as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

**Policemen to take oath of office, Secretary of State to transmit certificate of appointment, etc.**

§ 3. Every policeman so appointed shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the case of officers appointed by the Governor, in the twelfth article of the Constitution, which oath of office shall be taken and subscribed before the Secretary of State, or before the county clerk of the county in which such policeman resides, which said oath, or a duplicate thereof, shall be filed in the office of the Secretary of State. And it shall be the duty of the Secretary of State, upon the filing of such oath of office, to transmit to the county clerk of each county through or into which the railroad or steamboat for which such policeman is appointed may run, and in which the said policeman is herein authorized to act, a certificate under his hand and the seal of his office, setting forth the appointment of said policeman by the Governor, and that his commission is recorded and oath of office filed in the office of said Secretary of State, which

certificate shall be filed by each county clerk receiving the same. Such policemen shall thereupon severally possess all the powers of policemen in the several towns, cities and villages in which they shall be so authorized to act as aforesaid. (*Thus amended, Laws of 1875, chap. 193.*)

**Shield.**

§ 4. Such police shall, when on duty, severally wear a metallic shield, with the words "railway police," or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives. (*Thus amended, Laws of 1866, chap. 259.*)

**Compensation.**

§ 5. The compensation of such police shall be paid by the companies for which the policemen are respectively appointed, as may be agreed upon between them.

**Powers of, when to cease.**

§ 6. Whenever any company shall no longer require the services of any policeman so appointed as aforesaid, they may file a notice to that effect in the several offices in which notice of such appointment was originally filed, and thereupon the power of such officer shall cease and be determined.

**CHAP. 246, LAWS OF 1865.**

AN ACT in relation to employes on railroads in this State.

**Any person may be employed; age of.**

SECTION 1. It shall be lawful for the owner or owners of any railroad in this State to employ any inhabitant of this State of the age of twenty-one years, as a car driver or conductor, or in any other capacity, notwithstanding any law, regulation, or ordinance of any officer or municipality, or of the common council or government of any city or county to the contrary.

**CHAP. 151, LAWS OF 1866.**

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the State in cities of over 500,000 inhabitants.

**Twelve hours to constitute a days' labor.**

SECTION 1. Twelve hours' labor in twenty-four, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this State, whose main line of travel, or whose routes lie principally within the corporate limits of cities, of more than 500,000 inhabitants, whatever motive power may be used in the operation of such railroads.

**Exactng more a misdemeanor.**

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employes more than twelve consecutive hours' labor in the twenty-four, with one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

**Proviso.**

§ 3. This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or repeal.

**CHAP. 529, LAWS OF 1867.**

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the State, in cities of 100,000 inhabitants and over.

**Hours of labor on surface street and elevated railroads.**

SECTION 1. Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this State, whose main line of travel, or whose routes lie principally within the cor-

porate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

**Violation of act a misdemeanor.**

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employes more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

**How applicable.**

§ 3. This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or appeal.

**Repeal.**

§ 4. All acts inconsistent with this act are hereby repealed.

**CHAP. 560, LAWS OF 1866.**

AN ACT for the preservation of the health of animals for human food.

**Limit of confinement of cattle in cars.**

SECTION 1. No railroad company in this State, in the carrying and transportation of cattle, sheep or swine, shall confine the same in cars for a longer period than twenty-eight consecutive hours, unless delayed by storms or other accidental causes, without unloading for rest, water and feeding, for a period of at least ten consecutive hours. In estimating such confinement, the time the animals have been confined without such rest on connecting roads from which they are received shall be computed, it being the intention to prevent their continuous confinement beyond twenty-eight hours, except upon the contingencies herein stated. Nothing in this act contained shall require the unloading of cattle, sheep or swine from the cars of the Buffalo and State Line railroad before their arrival at Buffalo, and the Atlantic and Great Western railroad before they arrive at Salamanca.

**What company may do when owner neglects to feed.**

§ 2. Provided the owner or person in charge of said animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien on the animals until the same is paid; and *provided further*, that no claim of damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this act.

**Penalty for violation of act.**

§ 3. Any railroad company, owner, consignee, or person in charge of said cattle, sheep or swine, who shall violate any provision of this act, shall, for each and every such violation, be liable for and forfeit and pay a penalty in the sum of \$100, to be sued for and collected in any court having jurisdiction, by any person, in the name of the people of the State of New York; one-half of the penalty, when collected, to belong to the informer, and the balance to be paid to the State Treasurer of the State of New York.

**CHAP. 401, LAWS OF 1887.**

AN ACT in relation to milk cans.

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**Rights of railroad superintendents in relation thereto.**

§ 11. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and steamboat lines operating their lines, or any portion thereof in the State of New York, or elsewhere, shall have power to collect, gather, and take into possession from any person or persons within the State of New York, or wherever found in said State, any such milk or cream can or cans, and shall have power to appoint a agent therefor.

**Superintendent may appoint agent to collect same.**

§ 12. The certificate of any superintendent of any of the railroad companies or steam-boat lines mentioned in this act, or other person or persons authorized thereto, in this act, appointing an agent to collect such can or cans duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

**Powers of such agent.**

§ 13. Such agent shall have full power to collect, gather and take into his possession from any person or persons, or wherever found, any such milk or cream can or cans and in case of resistance may call to his aid the assistance of any constable or police officer who shall assist him to take possession of such can or cans.

**CHAP. 483, LAWS OF 1867.****AN ACT to prevent injury and loss of life to persons on railroad cars, and in relation to a uniform for the employees thereof.****Platforms to cars; uniforms for officers.**

SECTION 1. It shall be the duty of every railroad company or corporation in this State, and every railroad company or corporation running, or that may hereafter run its passenger cars in this State, to cause the platforms upon the ends of all passenger cars to be so constructed that when said cars shall be coupled together, or made up into trains and in motion, danger of injury to persons or loss of life between the ends of said cars, by falling between the platforms of said cars while passing from one car to another, shall, so far as practicable, be avoided. It shall be the duty of every railroad company operating a railroad in this State by the power of steam to designate and prescribe some peculiar uniform or external apparel, to be worn by its officers, agents and employees, engaged in or about its passenger offices or stations, or on or about its trains upon its tracks, as shall plainly to all travelers, distinguish all such persons; and such uniform or apparel shall also plainly indicate or distinguish the position or rank of the wearer in the employment of such company. It shall be the duty of every such person to provide and wear such apparel or uniform when employed as aforesaid. And every such company that shall fail to designate and prescribe such apparel or uniform, and to also cause the same to be generally worn by all such persons, from and after six months from the passage of this act, shall forfeit to the people of this State and be liable and pay to the Treasurer of this State, on the first day of January next following the expiration of said six months, and on every first day of January thereafter, the sum of \$10,000. It shall be the duty of the Attorney-General of this State, in the name of the people thereof, to sue for and recover said penalties for the benefit of the State. And in case of the refusal or omission of any person aforesaid to wear said uniform or apparel, as contemplated by this act, or to obey any reasonable rule or regulation of any such company relative to the same, or the wearing thereof, it shall be the right and duty of every such company to deduct and retain the amount of five per cent of the agreed or accustomed compensation of such delinquent person, during the period of any such neglect or refusal. And every person who shall advise or use any persuasion to induce any person being an officer, agent or employe of any such company, to leave the service of such company by reason of any such apparel or uniform being required to be worn, or to refuse to wear the same, or any part thereof, every person who, without authority, shall wear such uniform or apparel, and every person being an officer or agent in any company aforesaid, who shall use any inducement with any person aforesaid to come into the employment of any other such company, by reason of apparel or uniform so required or designated to be worn, shall severally, by reason thereof, be guilty of a misdemeanor and be liable to be punished for such offense.

**Fine for violation.**

§ 2. Each and every violation of this act by any railroad company or corporation, shall, on conviction, be punished by a fine of not less than \$50 nor more than \$500, to be sued for and collected in the name of the people of the State of New York by the Attorney-General, and the moneys, when collected, to be paid into the general fund of the State.

**Proviso.**

§ 3. This act shall not operate or be construed to exempt railroad companies or corporations from liability for damages to persons who may be injured or sustain loss or damage by or through any neglect to comply with the provisions of this act.

§ 4. (Omitted as obsolete.)

**CHAP. 636, LAWS OF 1870.**

**AN ACT** to provide for the better protection of life and safety of property transported on the several railroads of this State.

**Qualification of engineers.**

SECTION 1. No person shall be employed as an engineer by any officer or agent acting for or in behalf of either of the railroads of this State, who cannot read the printed time tables and ordinary handwriting.

**Id.**

§ 2. No person shall run an engine on a regular or special train upon either of the railroads of this State who cannot read printed time tables and ordinary handwriting.

**Penalty.**

§ 3. Any person offending against the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and punishable for each offense by a fine not exceeding \$100, or six months' imprisonment in a county jail, in the discretion of the court having cognizance of the offense.

**CHAP. 261, LAWS OF 1877.**

**AN ACT** to punish trespassing on railroads.

**Obstructions on track ; punishment for willfully placing.**

SECTION 1. Any person who shall willfully place any obstruction upon any railroad, or loosen, tear up or remove any part of a railroad, or displace, tamper or in any way interfere with any switches, frogs, rail, track, or other part of any railroad, so as to endanger the safety of any train, or who shall willfully throw any stone or other missile at any train on any railroad, or at any street car or omnibus upon or in which there shall be at the time any passenger or passengers, shall, upon conviction thereof, be punished by imprisonment in a State prison not exceeding ten years, or by fine not exceeding \$1,000, or by both such fine and imprisonment. (*Thus amended, Laws of 1881, chap. 438.*)

(Chapter 415, Laws of 1879, applicable to Kings county only, and hence omitted.)

**CHAP. 474, LAWS OF 1879.**

**AN ACT** to prevent the delaying of passengers on street railroad cars, and to prohibit obstructing the free passage of street railroad cars.

**Obstructing street cars a misdemeanor.**

SECTION 1. Every person who shall willfully obstruct, hinder or delay the passage or running of any car lawfully running upon any horse or street railroad in this State, shall be deemed guilty of a misdemeanor.

**CHAP. 223, LAWS OF 1880.**

**AN ACT** for the better protection of the traveling public.

**Governor authorized to appoint conductors and brakemen special policemen.**

SECTION 1. The Governor is hereby authorized, in his discretion, to appoint all or any conductors and brakemen of any trains of any steam railroad in this State conveying passengers, for the purposes of this act, policemen having all the powers, for the purposes of this act, with which policemen of villages and cities are clothed, and each and every such conductor and brakeman shall take and file the usual oath of office, in the office of the clerk of the county in which he resides, or in the office of the clerk of the county in which he resides, or in the office of the clerk of the county in this State in which either terminus of such road may be.



**Power to arrest.**

§ 2. All such conductors and brakemen acting as policemen under this act, upon any such railroad, shall have full power and it shall be their duty to arrest and hold in custody, and deliver to any magistrate having jurisdiction in such cases, at either terminus of such road in this State or at any intermediate station, any or all persons whom they may find engaged in, or endeavoring to entice others to engage in any game of cards or any other game of chance whatever, in which money or any representative of money, or any other valuable thing, is to be lost or won, and to enter complaint to such magistrate for any violation of the law governing in such cases.

**Penalty for failure to act.**

§ 3. Any conductor or brakeman refusing or neglecting to perform the duty imposed upon him by this act shall be liable to a fine not exceeding \$250, to be sued for by and in the name of any superintendent of the poor of any county where such refusal or neglect may have occurred, in any court of competent jurisdiction at any place on the line of said railroad, or to imprisonment not less than six months, or to both, in the discretion of the court.

**Fines, when collected; disposition of.**

§ 4. Any fine so imposed, when collected, shall be placed in the treasury of the county where recovered, for the use of the poor of said county.

**Copy of this act must be posted by superintendent or manager.**

§ 5. It shall be the duty of every superintendent or manager of every steam railroad in this State, immediately after the passage of this act, to post a copy of this law in some conspicuous place in each and every car used for the conveyance of passengers, under a penalty of not to exceed \$5 for each and every such car in which such notice shall not be posted.

**CHAP. 329, LAWS OF 1886.**

AN ACT to prevent the spread of contagious and infectious diseases.

**In what cases hermetically sealed casket is requisite.**

SECTION 1. Whenever the body of any deceased person is to be transported over the railroads of this State, or upon any passenger steamboat plying upon the rivers of this State, the board of health to which application is made for a transit permit for the transportation of such body shall, if the physician's certificate, or the permit accompanying such body, state the cause of death to have been a contagious or infectious disease, require that such body be inclosed in an hermetically sealed casket of metal or other indestructible material.

**CHAP. 370, LAWS OF 1880.**

AN ACT to prevent trespassing and intrusion upon railroad cars and engines.

**Jumping upon cars prohibited.**

SECTION 1. No minor or other person, not a passenger, shall climb, jump, step, stand upon, cling to or in any way attach himself to, any locomotive, engine or car, upon any part of the track of any railroad in this State, unless in so doing such person shall be acting in compliance with law, or by permission under the lawful rules and regulations of the corporation or proper officer managing such railroad.

**Solicitation to enter baggage car prohibited.**

§ 2. No person in the employment of any said corporation or officer, or intrusted with the care or possession of any such engine, or any freight or baggage car upon any said track, shall invite or solicit any such minor or other person to come, or be, or consent to his remaining upon any last-named car, or upon any engine, unless said minor or last-named person shall have the right by law or permission as aforesaid to go or remain upon any such car or engine.

**Punishment.**

§ 3. And any person who shall violate either section of this act shall be guilty of a misdemeanor, and be liable to a fine not less than \$5 nor exceeding \$25, which may be imposed by any court or magistrate having jurisdiction of any misdemeanor; and the person so offending shall be further liable to imprisonment until such fine and costs of prosecution shall be paid.

**Repeal.**

§ 4. All acts and parts of acts inconsistent with this act are hereby repealed.

**CHAP. 490, LAWS OF 1885.**

**AN ACT concerning tramps.**

**Penalty for entering building without consent**

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglar's tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the State prison, shall be deemed guilty of felony, and on conviction, shall be punished by imprisonment in the State prison at hard labor for not more than three years.

**CHAP. 100, LAWS OF 1847.**

**AN ACT to provide for the destruction of Canada thistles and other noxious weeds on the banks of the canals, railroads and turnpike roads.**

**Duty of superintendent of canals.**

SECTION 1. It shall be the duty of superintendents of canals to cause all Canada thistles and other noxious weeds growing on the banks and sides of the canals, to the width owned by the State, to be cut down twice in each and every year, once between the fifteenth day of June and the first day of July, and once between the fifteenth day of August and the first day of September.

**Provision in case of refusal or neglect.**

§ 2. If the said officers shall refuse or neglect to cause the same to be cut at the times as aforesaid, it shall be lawful for any person or persons to cut the same between the first and fifteenth days of July and between the first and fifteenth days of September in each and every year, at the expense of the superintendents having charge of the sections on which such thistles and noxious weeds shall be so cut, at the rate of one dollar per day for the time occupied in so cutting, to be recovered in any court of justice in this State.

**Canada thistles to be cut; if corporation neglect, any person may cut down at expense of corporation.**

§ 3. It shall be the duty of the several railroad corporations and turnpike road corporations within this State to cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by such corporations, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. (*Thus amended, Laws 1881, chap. 296.*)

**Any person may cut down where corporation neglects; corporation to pay expense.**

§ 4. If the said corporations, or any or either of them, shall neglect to cause the same to be cut down, at the times in third section of this act mentioned, it shall be lawful for any person to cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of Septem-

ber inclusive in each year, at the expense of the corporation on whose lands said Canada thistles, white and yellow daisies, or other noxious weeds shall be so cut, at the rate of \$3 per day for the time so occupied in cutting, to be recovered in any court of justice in this State. (*Thus amended, Laws 1881, chap. 296.*)

#### CHAP. 283, LAWS of 1885.

AN ACT to establish a forest commission, and to define its powers and duties and for the preservation of forests.

##### Forest lands not to be leased or taken

§ 8. The lands now or hereafter constituting the forest preserve shall be forever kept as wild forest lands, and shall not be sold nor shall they be leased or taken by any person or corporation, public or private, except that whenever any of the lands now constituting the forest preserve, or which may hereafter become a part thereof, owned by the State within any county specified in section seven of the act hereby amended, shall consist of separate small parcels or tracts wholly detached from the main portions of the forest preserve and bounded on every side by lands not owned by the State, then it shall be lawful, and the Comptroller shall have power to sell and convey such separate tracts or parcels, or the timber thereon, to such person or persons, corporation or association as shall have offered the highest price therefor; but no such tracts or parcels of land, or the timber thereon, shall be sold by the Comptroller except upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General in behalf of the State. Such separate tracts or parcels of land may be exchanged by the Comptroller for lands that lie adjoining the main tracts of the forest preserve upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General on behalf of the State; but the values of said lands so exchanged must be first appraised by three disinterested appraisers sworn to faithfully and fairly appraise the lands, and the difference, if any, between the value of such parcels so proposed to be exchanged shall be paid by the party so exchanging with the State into the State treasury, but the State shall not pay the amount of any such difference. Two of said appraisers shall be nominated and appointed by the county judge of the county in which said lands proposed to be exchanged are situate or in case such lands are situate in two counties, then the county judge of each county shall nominate and appoint each one appraiser. The two appraisers so appointed shall select a third appraiser, and they shall report to the Comptroller the result of said appraisal before such lands shall be exchanged as aforesaid. The said appraisers so appointed shall receive the same compensation for their services as is provided for appraisers of decedents' estates, to be paid by the party so proposing to exchange lands with the State. It shall be the duty of the Comptroller annually to report to the Legislature all sales or exchanges of lands made under the provisions of this act, together with all bids and the amounts received therefor, and in said report shall be included the reports of appraisers of lands exchanged in accordance with the foregoing provisions. The proceeds of all land so sold, or the receipts from all exchanges so made, shall be invested by the Comptroller, with the approval of the forest commission, in the purchase of forest land adjoining great blocks of the forest preserve now owned by the State. (*Thus amended, Laws of 1887, chap. 475.*)

##### Railroad companies to burn all inflammable material.

§ 25. Every railroad company whose road passes through waste or forest lands, or lands liable to be overrun by fires within this State, shall twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

##### Locomotives to be provided with arrangement for preventing escape of fire from engine.

§ 26. All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approval and sufficient arrangements for preventing the escape of fire from their furnaces or ash-pan, and

netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly be done.

§ 27. No railroad company shall permit its employees to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger from fire, it shall be their duty to report the same at their next stopping place, and the person in charge of such station shall take prompt measures for extinguishing such fires.

**Companies to provide men to extinguish fires.**

§ 28. In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest their progress,

§ 29. Any railroad company violating the provisions or requirements of this act shall be liable to a fine of \$100 for each offense.

**CHAP. 605, LAWS OF 1886.**

**AN ACT** to relieve certain railroad companies from the obligation of operating their road under certain conditions during the winter season.

**Certain roads may cease operating in winter season.**

SECTION 1. It shall be lawful for the directors of any railroad hereafter constructed, and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel to cease the operation thereof during the winter season by complying with the provisions of this act.

**Application to be made to Board of Railroad Commissioners.**

§ 2. Any such corporation may, by a resolution duly passed at a meeting of the directors thereof, apply to the Board of Railroad Commissioners of this State, for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the re-opening thereof. Such Board of Railroad Commissioners may, in their discretion, grant an order permitting such abandonment of the operation of said road during the winter season not exceeding said period of seven months. When such Board of Railroad Commissioners shall so order, said railroad company shall be relieved of the duty of operating their road during the period specified in such order.

**Copy of order to be posted and published.**

§ 3. Said railroad company shall post a copy of such order so made by said Board in all the depots of and at the termini of said road, and publish the same in every paper in each town, in any part of which said road shall be constructed, at least four weeks prior to the date of such suspension.

**CHAP. 470, LAWS OF 1857.**

**AN ACT** to prevent frauds in the sale of tickets to passengers upon railroads, steamboats and steamships.

**Sale of tickets.**

SECTION 1. No person other than the agents or employees of railroad, steamboat or steamship companies of this State, duly appointed by them for that purpose, by a proper authority in writing, shall offer for sale, or sell within this State, any ticket or tickets or any printed or written instrument issued by or purporting to have been issued by any railroad, steamboat or steamship company in this State or elsewhere, for the transportation of any passenger or passengers, upon any such railroad, steamboat or steamship, or any instrument wholly or partly printed or written, delivered for the purpose or upon the pretense of the procurement to such passenger or passengers, of

any such ticket or tickets, or in any other manner charge, take or receive any money as a consideration or price for such passage or for the procurement of such passage ticket or tickets; and no ticket or tickets, or other evidence as aforesaid, shall be sold or offered for sale by the said agents or employees, except at the offices designated for that purpose by the said companies respectively, and at prices not exceeding their regular established rates, "or at offices conveniently located by agents or other duly organized railway companies," provided that nothing in this amendment shall apply to the city and county of New York, or the county of Kings. (*Amended by chap. 820, Laws of 1888.*)

#### **Violation of act.**

§ 2. Whenever any person or persons shall be complained of and arrested for violating any of the provisions of the first section of this act, it shall be the duty of the magistrate, before whom such complaint is made, to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or the party accused, and the depositions so taken shall be respectively subscribed by the witnesses making the same, and certified by the magistrate; and when so taken and certified, the said depositions shall be filed in the office of the clerk of the county in which the same shall be taken. Upon the trial of any person or persons charged with any offense under the provisions of this act, the testimony taken as aforesaid may be read by either party, with the like effect as if the said witness or witnesses were sworn in open court upon said trial, provided it shall appear therein that the witness or witnesses were, at the time of taking the same, residents of another State, territory or province, or are emigrating from a foreign country, or are residents of this State, and on their way to some other State, territory or province.

#### **Penalty.**

§ 3. Any person violating the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by a fine of not less than \$100, or by imprisonment of not less than three months, or by both such fine and imprisonment.

### **CHAP. 590, LAWS OF 1872.**

**AN ACT to regulate processions and parades in the cities of the State of New York.**

**No procession or parade to interfere with free passage of cars upon street railways.**

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which in so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

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#### **Penalty.**

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding \$20, or imprisonment not exceeding ten days, or both at the discretion of the court.

### **CHAP. 167, LAWS OF 1877.**

**AN ACT in relation to the indictment and punishment of criminal offenses committed on railroads within the State.**

**Where indictments for any crime or offense committed on railroads may be found.**

SECTION 1. When any crime or offense shall have been committed within this State, on, in or on board of any railroad train or railroad car making any passage or trip on or over any railroad in this State, or in respect to any portion of the

loading or freight of any such railroad train or railroad car, an indictment for the same may be found in any county through which, or any part of which such railroad train or railroad car shall pass, or shall have passed in the course of the same passage or trip, or in any county where such passage or trip shall terminate, or would terminate if completed; and such indictment may be tried and conviction thereon had, and all other proceedings to bring the offender to punishment may be had, in any such county, in the same manner and with like effect, as in the county where the offense or crime was committed.

**CHAP. 616, LAWS OF 1887.**

**AN ACT** to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.

**Passenger cars not to be heated by stove or furnace inside of car; powers of Railroad Commissioners in relation thereto.**

**SECTION 1.** It shall not be lawful for any steam railroad doing business in this State, after the first day of May, eighteen hundred and eighty-eight, to heat its passenger cars, on other than mixed trains, by any stove or furnace kept inside of the car, or suspended therefrom, except it may be lawful, in case of accident or other emergency, to temporarily use such stove or furnace with necessary fuel. Provided, that in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained, to be used only when the car is standing still. And provided also, that this act shall not apply to railroads less than fifty miles in length, nor to the use of stoves, of a pattern and kind to be approved by the Railroad Commissioners for cooking purposes in dining-room cars.

**Guard-posts to be placed on prolongation of line of bridge trusses.**

§ 2. After November first, eighteen hundred and eighty-seven, guard-posts shall be placed in the prolongation of the line of bridge trusses, so that in case of derailment the posts and not the bridge trusses shall receive the blow of the derailed locomotive or car.

**Penalty for violation of this act.**

§ 3. Any person or corporation violating any of the provisions of this act shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such a violation shall continue.

**Board of Railroad Commissioners to approve devices used under this act.**

§ 4. Upon the application of any railroad covered by the provisions of this act, the Board of Railroad Commissioners may approve of any proposed safeguard or device to be used under the provisions of this act, and thereafter the railroad using such safeguard or device so approved shall not be liable to any of the penalties prescribed by this act for a violation thereof in regard to any such safeguard or device.

§ 5. The violation of any of the provisions of this act will be deemed a misdemeanor.

**CHAP. 585, LAWS OF 1880.**

**AN ACT** for the prevention of accidents to children.

**No minor child to be allowed to ride on platform, steps, etc.**

**SECTION 1.** No minor child within this State not being a passenger shall be allowed upon the platform or steps of any railroad car drawn by steam, or of any omnibus, street car or other vehicle drawn by horses, and the parents or guardians of any child who shall permit such child to ride or play upon the steps or platform of any such railroad car, omnibus, street car or other vehicle, shall be punished on conviction by a fine not less than \$5 or more than \$10.

**Duty of policemen and constables to arrest.**

§ 2. It shall be the duty of all constables and policemen within this State to arrest any child or children violating the provisions of this act. And any such child or children shall likewise on conviction be punished by a fine not exceeding \$5 for each offense.

**CHAP. 439, LAWS OF 1884.**

**AN ACT** for the better protection of life and property upon the railroads of this State, to promote the safer and better management of steam railroads.

**The switches to be used in constructing new or in renewal of old ones.**

SECTION 1. Steam railroads shall hereafter lay in the construction of new and in the renewal of existing switches upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz or split-point switch, or some other kind of safety switch which shall prevent the derailment of a train when such switch is misplaced, or a switch interlocked with distant signals. For each switch laid in violation of the provisions of this section the corporation, person or persons operating said railroad, shall be liable to a penalty of not exceeding \$100, and to the further penalty of \$5 for each day that such switch is used.

**Warning signals; penalty; what misdemeanor.**

§ 2. Every steam railroad shall, within six months after the passage of this act, erect, and hereafter maintain, such suitable warning signals at every low bridge or structure which crosses the railroad above the tracks, where such warning signals may be necessary for the protection of employees on top of cars from injury. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each thirty days' neglect. Whoever willfully destroys or breaks any such bridge guard shall be guilty of a misdemeanor.

**The Supreme or County Court may on application, etc., order flagman to be stationed at highway crossing, etc.; when such order to be made.**

§ 3. At any point where a street, highway, turnpike, plankroad or traveled way is crossed at the same level by a railroad, or at any point where a horse railroad is crossed by a steam railroad, the Supreme Court or County Court may, upon the application of the local authorities and upon ten days' notice to the railroad corporation whose road so crosses, order that a flagman be stationed at such point, or that gates shall be erected across such street, highway, turnpike or plankroad, and that a person be stationed to open and close such gates when an engine or train passes, or make such other order respecting the same as it deems proper. Such order shall only be made after the refusal or neglect of such corporation to station such flagman or erect such gates after having been requested to do so by such local authorities.

**Automatic couplers after July 1, 1886, to be placed on new freight cars; penalty.**

§ 4. After July 1, 1886, no couplers shall be placed upon any new freight car to be built or purchased for use, in whole or in part, upon any steam railroad in this State, unless the same can be coupled and uncoupled automatically without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each offense.

**Trains and locomotives to come to a full stop where roads cross on same level; when to cross; expense of watchman when railroad companies disagree as to precedence of trains; penalty of engineer and corporation; when may be discontinued; where this section not to apply.**

§ 5. All trains and locomotives on railroads crossing each other on the same level shall come to a full stop before crossing, not less than 200 nor more than 800 feet from said crossing, and shall then cross only when the way is clear and upon a signal to do so from a watchman stationed at the crossing. If they cannot agree as

to the expense of such watchman, it shall be determined by the Supreme Court, upon motion thereto by either of said corporations. In case of disagreement as to the precedence of trains, the Board of Railroad Commissioners, after hearing, may, upon a joint application of the companies interested, prescribe rules in relation thereto. An engineer violating the provisions of this section shall be liable to a penalty of \$100, and any corporation, person or persons operating the railroad violating any of the provisions of this section shall be liable to a penalty not exceeding \$500. The full stop and crossing on signal, provided in this section, may be discontinued when the Board of Railroad Commissioners shall decide it to be impracticable, or when, with the approval of the Board of Railroad Commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing by the railroads there crossing each other at a level. This section shall not apply to depot yards and the approaches thereto when the crossing roads are under lease or subject to the same management or control in the use of tracks.

**When automatic air brakes or other form of safety power brake to be applied from locomotive to be attached to passenger cars not to apply to cars attached to freight trains where speed does not exceed twenty miles an hour; the old link connection after July 1, 1884, not to be used on cars carrying mail and passengers exclusively; penalty.**

§ 6. After the expiration of one year from the passage of this act, no steam railroad shall use for passenger transportation any car to which an automatic air brake or other form of safety power brake, applied from the locomotive, shall not be attached. The provisions of this section shall not apply to any cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour. And after July 1, 1884, no trains which carry mails or passengers exclusively shall run cars coupled by the old link connections. The corporation, person or persons operating said railroad and violating the provisions of this section shall be liable to a penalty not exceeding \$100 for each offense.

**Where baggage is willfully or recklessly injured; insufficient help for handling; penalty; disposition thereof.**

§ 7. Any baggage-master or other person whose duty it is, for on or behalf of any common carrier, to handle, remove or care for the baggage of passengers, who shall willfully or recklessly injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same or any railroad corporation which shall knowingly keep in its employment any such willful or reckless baggage-master, or other person, or which shall permit any injury or destruction of the property aforesaid through failure to provide sufficient help and facilities for the proper handling thereof, shall be liable to a penalty not exceeding \$50. Upon the recovery and payment of such penalty, the court before whom such recovery is had shall set apart and pay over to complainant one-half of the amount so recovered and paid.

**Axe, sledge-hammer, crowbar and handsaw to be kept in each closed car in every passenger train; penalty.**

§ 8. Each closed car in use in every passenger train, owned or regularly used upon a railroad, shall be equipped with one set of tools, consisting of an axe, sledge-hammer, crowbar and handsaw, to be properly placed so as to be easily removed. The corporation, person or persons operating said railroad violating the provisions of this section shall be liable to a penalty of \$100 for each offense.

**Proviso.**

§ 9. Nothing in this act shall affect the provisions of chapter 353 of the Laws of 1882.

**CHAP. 399, LAWS OF 1881.**

**AN ACT to provide against accidents on elevated railroads.**

**Trains to come to full stop, etc.**

SECTION 1. All trains upon elevated railroads shall come to a full stop before any passenger shall be permitted to leave such trains; and no train on such railroad shall



be permitted to start, until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same; provided that nothing herein contained shall be construed to permit any person to board or enter any train after due notice from an authorized employee of such railroad corporation that such train is full, and that no more passengers can be then received.

**Gates; construction of, etc.**

§ 2. Every car used for passengers upon elevated railroads, shall have gates at the outer edges of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging against and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

**Penalty for violation of this act.**

§ 3. Any agent, conductor, engineer, brakeman or employee of such railroad corporation, who shall start any train or car, or give any signal or order to any engineer or other person, by signal rope or otherwise, to start any train or car, or who shall obstruct the ingress or egress of any passenger to or from any car, or who shall open or close a platform gate of any car, in violation of this act, shall be deemed guilty of a misdemeanor, and shall upon conviction be held liable to pay a fine of not less than twenty-five nor more than one hundred dollars, or be imprisoned for not less than ten nor more than ninety days; or both; and any elevated railroad corporation that shall fail or neglect to comply with, or enforce the provisions of this act, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation any proof of such failure or neglect, pay to the clerk of the court wherein such petition is made a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order; and the sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which such proceeding is had, at such times as the board of supervisors or board of aldermen in such county shall direct.

**Construction of act.**

§ 4. Nothing in this act shall be construed to relieve the elevated railroad companies from any liability under which they may now be held by existing laws for damages to persons or property.

**This act to be printed and posted in depots, stations and cars.**

§ 5. The officers and board of directors of such railroad corporations shall immediately cause copies of this act to be printed and posted conspicuously in the depots or stations and in each car belonging to them.

**CHAP. 186, LAWS OF 1880.**

**AN ACT to repress and punish disorderly conduct on public conveyances.**

**Disorderly conduct on railroad car, etc., a misdemeanor; police justice or justice of the peace in city or county in which disorderly act committed to have jurisdiction.**

SECTION 1. Any person who shall by any offensive or disorderly act, or language, annoy or interfere with the passengers of any public stage, railroad car, ferry-boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance by any disorderly act, language or display, although such act,

conduct or display may not amount to an assault or battery, shall be deemed guilty of misdemeanor, and any police justice or justice of the peace of the city or county in which any of such acts shall be committed shall have jurisdiction thereof.

**CHAP. 261, LAWS OF 1878.**

**AN ACT to prevent accidents on railroads operated by steam power in the State of New York.**

**Any person getting on or off freight or wood car while in motion, or unlawfully riding on same, guilty of a misdemeanor; penalty.**

**SECTION 1.** Any person or persons who shall get on or off a freight car or engine while in motion, or who shall ride on any wood or freight car, unless employed by or with permission from the proper officers of such railroad, or the person in charge of such car or engine shall be deemed guilty of a misdemeanor, and shall be liable to a fine of twenty-five dollars or three months' imprisonment, or both fine and imprisonment.

**CHAP. 628, LAWS OF 1857.**

**AN ACT to suppress intemperance and to regulate the sale of intoxicating liquors.**

**Intemperate persons to be refused employment by all incorporated companies engaged in conveying passengers, especially railroad, steamboat and ferry companies; penalty for keeping such persons in employment.**

\* \* \* \* \*

**§ 31.** All incorporated companies and persons in this State, engaged in conveying passengers, including especially all railroad, steamboat and ferry companies, and all kinds of corporations conveying for hire, persons or property, shall be and hereby are required to refuse employment to all persons who, on good and sufficient proof, shall be shown to indulge in the intemperate use of intoxicating drinks, and any such company which shall retain in its employ any person or persons who shall, on competent proof, be shown to be intoxicated at any period whilst in the active service of said company or person, either as engineer, conductor, fireman, switch-tender, commander, pilot, mate or foreman, or be in any way connected with the moving power or management, or whose duty, if neglected, would diminish the safety and security of life, limb or property intrusted thereto, said company or corporation shall be liable to pay a sum of not less than fifty dollars nor more than one hundred dollars to the county treasurer in the county where the offense may be committed and proved, before any court of competent jurisdiction.

\* \* \* \* \*

**CHAP. 499, LAWS OF 1855.**

**AN ACT in relation to the stealing and forging of railroad tickets.**

**Conviction of person stealing, taking and carrying away railroad passenger tickets, larceny.**

**SECTION 1.** Every person who shall be convicted of stealing, taking and carrying away any railroad passenger ticket or tickets, prepared for sale to passengers, previous to or after the sale thereof, being the personal property of any railroad company, or of any other corporation or corporations, or of any person or persons, shall be adjudged guilty of grand or petit larceny, as prescribed in the next following section.

**Where price of ticket authorized to be charged exceeds twenty-five dollars, grand larceny; punishment; where twenty-five dollars or under, petit larceny; punishment.**

**§ 2.** If the price or prices authorized to be charged for such ticket or tickets, on a sale thereof, shall exceed the sum of twenty-five dollars, such price or prices shall be deemed

the value of such ticket or tickets, and the offense of stealing, taking and carrying away the same shall be adjudged grand larceny, and the person convicted of the same shall be imprisoned in a State prison for a term not exceeding five years; but if such price or prices shall only amount to twenty-five dollars or under, the offense of stealing, taking and carrying away such ticket or tickets shall be adjudged guilty of petit larceny, and the person convicted of the same shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment.

#### **What are railroad tickets.**

§ 3. Railroad passenger tickets of any railroad company, as well before the same shall have been issued to its receivers or other agents for sale as after, and whether indorsed by such receivers or other agents or not, are to be deemed railroad tickets within the meaning of this act.

#### **Forged tickets; punishment.**

§ 4. Every person who shall be convicted of having forged, counterfeited or falsely altered any railroad ticket mentioned or referred to in either of the preceding sections of this act, or of having sold, exchanged or delivered for any consideration, any such forged or counterfeited railroad ticket, knowing the same to be forged or counterfeited, with intent to injure or defraud; or of having offered any such forged or counterfeited railroad ticket for sale, exchange or delivery, for any consideration, with the like knowledge and intent, or of having received any such forged or counterfeited railroad ticket upon a sale, exchange or delivery, for any consideration, with the like knowledge and intent, shall be adjudged guilty of forgery in the third degree, and shall be punished in like manner as is prescribed by law in cases of conviction of forgery in the third degree.

#### **Id. ; penalty.**

§ 5. Every person who shall have in his possession any such forged or counterfeited railroad ticket as mentioned or referred to in the next preceding section, knowing the same to be forged, counterfeited or falsely altered, with intention to injure or defraud by uttering the same as true or false, or by causing the same to be uttered, or by the use of the same to procure a passage in the cars of the railroad company by which such ticket purports to have been issued, shall be subject to the punishment provided by law for forgery in the fourth degree.

### **CHAP. 346, LAWS OF 1848.**

**AN ACT to dispose of certain vacant and unoccupied lands belonging to the Onondaga Salt Springs reservation, and for other purposes.**

#### **Provisions respecting railroad companies.**

§ 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this State, for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into the treasury of this State the appraised value, they shall become possessed of the same, to the same extent as by their charter they are authorized to become possessed of lands belonging to individuals.

#### **Article VIII, section 1 of the Constitution of the State of New York.**

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

## THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF NEW YORK.

### SECTIONS APPLICABLE TO RAILROAD COMPANIES.

#### Court of special sessions, jurisdiction of.

SECTION 1. Section fifty-six of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as a conductor of a car or train of cars on any such railroad.

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people. (*Thus amended, Laws 1886, chap. 28.*)

#### Of crime committed in the State on board of any railway train, etc.

§ 137. When a crime is committed in this State, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this State, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

#### Plea of guilty, how put in.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

#### Summons upon an information or presentment against a corporation, by whom issued, and when returnable.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

§ R. S. 1046, §§ 56, 57, 58.

#### Form of the summons.

§ 676. The summons must be in substantially the following form:

"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the place,] on [specifying the day and hour,] to answer a charge made against you, upon the information of *A. B.*, for [designating the offense, generally.]

"Dated at the city, [or 'town,'] of \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

"G. H., *Justice of the Peace.*"

[Or as the case may be.]

**When and how served.**

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

Id.

**Examination of the charge.**

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

Id.

**Certificate of the magistrate, and return thereof with depositions.**

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

Id.

**Grand jury may proceed as in the case of a natural person.**

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

Id.

**Appearance, and plea to indictment, and proceedings thereon.**

§ 681. If an indictment be found against a corporation, it may appear by counsel, to answer the same. If it do not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

Id.

**Fine, on conviction, how collected.**

§ 682. When a fine is imposed upon a corporation, on conviction, it may be collected by virtue of the order imposing it, by the sheriff of the county, out of their real and personal property, in the same manner as upon an execution in a civil action.

Id.

## THE PENAL CODE OF THE STATE OF NEW YORK.

(Chapter 676 of the Laws of 1881.)

## PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

**Compelling employee to agree not to join any labor organization a misdemeanor.**

SECTION 171A. Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment. (*Chap. 688, Laws of 1887.*)

**Use of force or violence declared not unlawful in certain cases, etc.**

Subdivision 5, section 223.

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

\* \* \* \* \*

**Advising or inducing employees not to wear uniform a misdemeanor.**

§ 425. Any person who,

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

2 R. S., 534, § 40; 2 R. S., 560, § 143; Laws of 1867, chap. 483, § 1.

**Arson in second degree.**

§ 487. A person who,

\* \* \* \* \*

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being although no person is within it at the time.

\* \* \* \* \*

**Arson in third degree.**

§ 488. A person who willfully burns, or sets on fire, either,

1. A vessel, car or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree.

**Burglary in third degree.**

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or.

2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

3 R. S., 941, §§ 18, 19.

**Unlawfully entering building.**

§ 505. A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

**"Building," defined.**

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

**Riding on freight or wood trains; getting on car or train while in motion; obstructing, etc., horse or street railroad cars; punishment.**

§ 426. A person who,

1. Rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of the car or engine; or,

2. Who gets on any car or train while in motion, for the purpose of obtaining transportation thereon as a passenger; or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any horse or street railway;

Is guilty of a misdemeanor.

Laws 1871, chap. 261; Laws 1879, chap. 474; Laws 1880, chap. 370.

**Penalty for attempting to forward any explosive by railroad without revealing true nature thereof.**

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or cause to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carriers of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosive, or substance so offered or attempted to be offered to the company or carrier to which it shall be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a State prison for not less than one nor more than five years or be subject to both such fine and imprisonment. (*As amended by chap. 689, Laws of 1887.*)

**Endangering life by maliciously placing explosive near building, car, etc.**

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

See §§ 201, 389, 636.

**Emigrants; sales and exchanges of passenger tickets.**

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway-vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship:

Is guilty of a misdemeanor.

1 R. S. 1087, §§ 78, 79, 81, Laws of 1853, chap. 218, §§ 7, 8, 9; Laws of 1855, chap. 474, §§ 1, 3, 4.

**"Company" defined.**

§ 627. The term "company," as used in this chapter, includes all corporations, whether created under the laws of this State or of the United States, or those of any other State or nation.

Laws of 1860, chap. 103, § 13.

**Forging passage tickets.**

§ 516. A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.

**Injury to railroad track, etc., how punished.**

§ 636. A person who,

1. Displaces, removes, injures or destroys a rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure, or any part thereof, attached or appertaining to or connected with a railway, whether operated by steam or by horses; or,

2. Places any obstruction upon the track of such a railway; or,

3. Willfully discharges a loaded fire-arm, or projects or throws a stone or any other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway;

Is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years, or by a fine of not more than \$250, or both.

3 R. S. 966, § 26; Laws of 1887, chap. 261, § 1.

**Altering, etc., signal or light for railway engine or train.**

§ 638. A person who, with intent to bring a vessel, railway engine, or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or,

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

**Frauds in subscriptions for stock of corporations.**

§ 590. A person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed; and a person who signs to any subscription or agreement the name of any person knowing that such person does not intend in good faith to comply with the terms thereof, or under any



understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

§ 615. Repealed; Laws, 1882.

**Sale by authorized agents restricted.**

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

**Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.**

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or instrument, for the purpose or under the pretense, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

Laws of 1860, chap. 103, § 3; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

**Punishment for violation of the preceding sections.**

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a State prison not exceeding two years, or by imprisonment in a county jail not less than six months.

Laws of 1860, chap. 103, § 4; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

**Conspiring to sell passage tickets in violation of law.**

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who, by means of any such conspiracy, obtain, or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a State prison not exceeding five years.

Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1870, chap. 108, § 5; Laws of 1870, chap. 423.

**Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.**

§ 620. Persons guilty of violating the last section may be indicted and convicted for conspiracy, though the object of such conspiracy has not been executed.

Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 423, § 6; see § 171.

**Offices kept for unlawful sale of passage tickets, declared disorderly houses.**

§ 621. All offices kept for the purpose of selling passage tickets in violation any of the provisions of this chapter, and all offices where any such sale is made are deemed disorderly houses; and all persons keeping any such office, and :

persons associating together for the purpose of violating any of the provisions of this chapter, are punishable by imprisonment in a county jail, for a period not exceeding six months, and not less than three months.

Laws of 1860, chap. 103, § 7; Laws of 1870, chap. 423.

**Station masters, conductors, etc., allowed to sell tickets.**

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway, from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

**Liability of persons in charge of steam engines.**

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

3 R. S. 934, § 21; Id. 973, § 31; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law. § 262; see, also, §§ 362, 424, *post*.

**Mismanagement of steam boilers.**

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory or other mechanical works, who, willfully or from ignorance, or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

3 R. S. 873, § 31; see § 199, *ante*.

**Employment of engineer who cannot read.**

§ 418. A person who, as an officer of a corporation or otherwise, knowingly employs as an engineer or engine-driver to run locomotives or trains on any railway in this State a person who cannot read the time-tables and ordinary handwriting, is guilty of a misdemeanor.

2 R. S. 534, § 42; Laws of 1870, chap. 636, §§ 1, 3.

**Person acting as engineer who cannot read.**

§ 419. A person who, being unable to read the time-tables of the road and ordinary handwriting, acts as engineer, or runs a locomotive or train on any of the railways in this State, is guilty of a misdemeanor.

2 R. S. 534, § 43; Laws of 1870, chap. 636, §§ 2, 3.

**Intoxication of persons running trains and boats.**

§ 420. A person who, being employed upon any railway as engineer, conductor, baggage-master, brakeman, switch-tender, fireman, bridge-tender, flagman, signalman, or having charge of stations, starting, regulating or running trains upon a railway, or being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while in the discharge of any such duties, is guilty of a misdemeanor.

2 R. S. 941, § 39; Laws of 1857, chap. 628, § 31; Laws of 1871, chap. 560; Code Crim. Proc., § 56.

**Failure to ring bell, etc.**

§ 421. A person acting as engineer driving a locomotive on any railway in this State, who fails to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, is guilty of a misdemeanor.

2 R. S. 542, § 61; Laws of 1850, chap. 140, § 61, Laws of 1854, chap. 282.

**Placing passenger car in front of baggage car.**

§ 422. A person, being an officer or employee of a railway company, who knowingly places, directs, or suffers a baggage, freight, lumber, oil or merchandise car to be placed in rear of a car used for conveyance of passengers in a railway train, is guilty of a misdemeanor.

2 R. S. 541, § 60; Laws of 1850, chap. 130, § 38.

**Platforms.**

§ 423. A railway company, and any officer or director having charge thereof, and any person managing a railway in this State, or which runs its cars into or through this State, who fails to have the platforms or ends of the passenger cars constructed in such a manner as will prevent passengers falling between the cars when in motion, is guilty of a misdemeanor.

2 R. S. 560, § 143; Laws of 1867, chap. 483.

**Other violations of duty by officers, agents or servants of railroad Companies.**

§ 424. An engineer, conductor, brakeman, switch-tender or other officer, agent or servant of any railway company, who is guilty of any willful violation or omission of his duty as such officer, agent or servant, by which human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

Laws of 1867, chap. 483, § 1, in part; see § 199, *ante*.

**Officer of corporation selling, etc., forged or fraudulent scrip, etc.**

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this State, or of any other State or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3,000.

3 R. S. 946, §§ 49, 50; § 591, *post*.

**Falsely indicating person as corporate officer.**

§ 519. The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association, State or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, State or government.

3 R. S. 946, § 48; 2 R. S. (Edm.) 695, § 47; Laws of 1855, chap. 155.

**Terms "forge" and "forging."**

§ 520. The expression "forge," "forged" and "forging," as used in this chapter include false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

3 R. S. 946, § 44.

**Fraudulent issue of stock, scrip, etc.**

§ 591. An officer, agent or other person in the service of any joint-stock company, or corporation formed or existing under the laws of this State, or of the United States, or of any State or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either,

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or

executes, or causes to be signed or executed, with intent to sell, pledge or issue, or to cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares;

Is punishable by imprisonment for not less than three years nor more than seven years, or by a fine not exceeding \$3,000, or by both.

Laws of 1855, chap. 155, §§ 1, 2.

### **Frauds in procuring organization of corporation, or increase of capital.**

§ 592. An officer, agent or clerk, of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a State prison not exceeding ten years and not less than three years.

See Laws of 1829, chap. 94, § 29.

### **Misconduct of directors of stock corporations.**

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended.

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the Legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus profits, directly or indirectly, to the purchase of shares of its own stock; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporation; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation;

Is guilty of a misdemeanor.

2 R. S., 297, § 1; Laws of 1869, chap. 742, § 7.

### **Frauds in keeping accounts, etc.**

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits

or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a State prison not exceeding ten years, and not less than three years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$500, or by both such fine and imprisonment.

Laws of 1839, chap. 94, § 29; Laws of 1843, chap. 218, § 6.

**Officer of corporation publishing false reports of its condition.**

§ 603. A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this Code, specially made punishable, is guilty of a misdemeanor.

Laws of 1874, chap. 440, §§ 1, 2.

(Section 607 repealed by chapter 377, Laws of 1884.)

(Section 608 repealed by chapter 377, Laws of 1884.)

**Directors of corporation presumed to have knowledge of its affairs.**

§ 609. A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

2 R. S., 299, § 14.

**Director present at meeting, when presumed to have assented to proceedings.**

§ 610. A director of a corporation, or joint-stock association, who is present at a meeting of the directors, at which any act, proceeding or omission of such directors in violation of this chapter occurs, must be deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

2 R. S., 298, §§ 12, 13.

**Director absent from meeting, when presumed to have assented to proceedings.**

§ 611. A director of a corporation, or joint-stock association, although not present at a meeting of the directors, at which any act, proceeding or omission of such directors, in violation of this chapter, occurs, must be deemed to have concurred therein, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, without causing, or in writing requiring, his dissent from such illegality to be entered in the minutes of the directory.

Id.

**Failure of director to disclose service of notice of application for injunction.**

§ 612. A director, trustee or other officer of a joint-stock association or corporation, upon whom a notice of application for an injunction affecting the property or business of such joint-stock association or corporation is served, who omits to disclose to the other directors, officers or managers thereof, the facts of such service, and the time and place of such application, is guilty of a misdemeanor.

Laws of 1870, chap. 151, § 1.

**Foreign corporations subject to provisions of this chapter.**

§ 613. It is no defense to a prosecution for violation of the provisions of this chapter, that the corporation was one created by the laws of another State, government or country, if it carried on business, or kept an office therefor, within this State.

**"Director" defined.**

§ 614. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter, or are known in law.

2 R. S. 304, § 56.

**Carrying animal in a cruel manner, a misdemeanor.**

§ 659. A person who carries or causes to be carried in or upon any vessel or vehicle, or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

3 R. S. 974, § 38; Laws of 1880, chap. 209; Laws of 1867, chap. 375, § 5; § 663, *post*.

**Transporting animals for more than twenty-four consecutive hours a misdemeanor.**

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereon for such expense.

3 R. S. 974, § 38; Laws of 1866, chap. 560, § 1.

**Definitions.**

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature.

2. The word "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted:

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

8 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1862, chap. 467, § 4.

**Innkeepers and carriers refusing to receive guests and passengers.**

§ 381. A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

See § 333, *post*.

**No exclusion because of race, color, etc.**

§ 383. No citizen of this State can, by reason of race, color, or previous condition of servitude, be excluded from the equal enjoyment of any accommodation, facility or privileges furnished by innkeepers or common carriers, or by owners, managers, or lessees of theaters or other places of amusement by teachers and officers of common schools and public institutions of learning, or by cemetery associations. The violation of this section is a misdemeanor, punishable by a fine of not less than \$50, nor more than \$500.

1 R. S. 377, §§ 22-24; see § 381, *ante*.

**Issuing fictitious bills of lading, etc.**

§ 628. A person being the master, owner or agent of any vessel, or officer or agent of

any railway, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

2 R. S. 229; Laws of 1858, chap. 326, § 5; Laws of 1859, chap. 353; Laws of 1866, chap. 440.

#### **Erroneous bills of lading or receipts issued in good faith excepted.**

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading, receipt or other vouchers did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

#### **Duplicate receipts must be marked "duplicate."**

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

#### **Selling, hypothecating or pledging property received for transportation or storage.**

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

2 R. S. 229, § 4. Laws of 1858, chap. 326; Laws of 1859, chap. 353; Laws of 1866, chap. 440.

#### **Property demanded by process of law.**

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process.

2 R. S. 229, § 8.

# INTER-STATE COMMERCE ACT (SO CALLED).

## AN ACT to regulate commerce.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers and property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

§ 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting



therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

§ 6. That every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its railroad, as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force upon such railroad, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, of at least the size of ordinary pica, and copies for the use of the public shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep for public inspection, at every depot where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reductions in such published rates, fares, or charges may be made without previous public notice; but whenever any such reduction is made, notice of the same shall immediately be publicly posted and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection.

And when any such common carrier shall have established and published i

rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedule of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published; but no common carrier party to any such joint tariff shall be liable for the failure of any other common carrier party thereto to observe and adhere to the rates, fares, or charges thus made and published.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation, in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

§ 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed

by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

§ 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any direct or officer thereof, or any receiver, trustee, lessee, agent, or person acted for or employed by such corporation, who, alone, or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense.

§ 11. That a commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five and six years, respectively, from the first day of January, Anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stocks or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

§ 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and for the purposes of this act the Commission shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

And any of the circuit courts of the United States within the jurisdiction of

which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

§ 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

§ 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

§ 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

§ 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order or requirement of the Commission in this act named, it shall be the duty of the Commission, and lawful

for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the Circuit Court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be, and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said Commission shall be prima facie evidence of the matter therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ or injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court, or into the Treasury; any payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more either party to such proceedings before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the cost and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. For the purposes of this act, excepting its penal provisions, the Circuit Court of the United States shall be deemed to be always in session.

§ 17. That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official

act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations.

§ 18. That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the salaries of judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties, subject to the approval of the Secretary of the Interior.

The Commission shall be furnished by the Secretary of the Interior with suitable offices and all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation in any other places than in the city of Washington, shall be allowed and paid, on the presentation of itemized vouchers therefor approved by the chairman of the Commission and the Secretary of the Interior.

§ 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

§ 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipment; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

§ 21. That the Commission shall, on or before the first day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

§ 22. That nothing in this act shall apply to the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition

thereat, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees, and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies. *Provided*, That no pending litigation shall in any way be affected by this act.

§ 23. That the sum of one hundred thousand dollars is hereby appropriated for the use and purposes of this act for the fiscal year ending June thirtieth, anno Domini eighteen hundred and eighty-eight, and the intervening time anterior thereto.

§ 24. That the provisions of sections eleven and eighteen of this act, relating to the appointment and organization of the Commission herein provided for, shall take effect immediately, and the remaining provisions of this act shall take effect sixty days after its passage.

Approved February 4, 1887.

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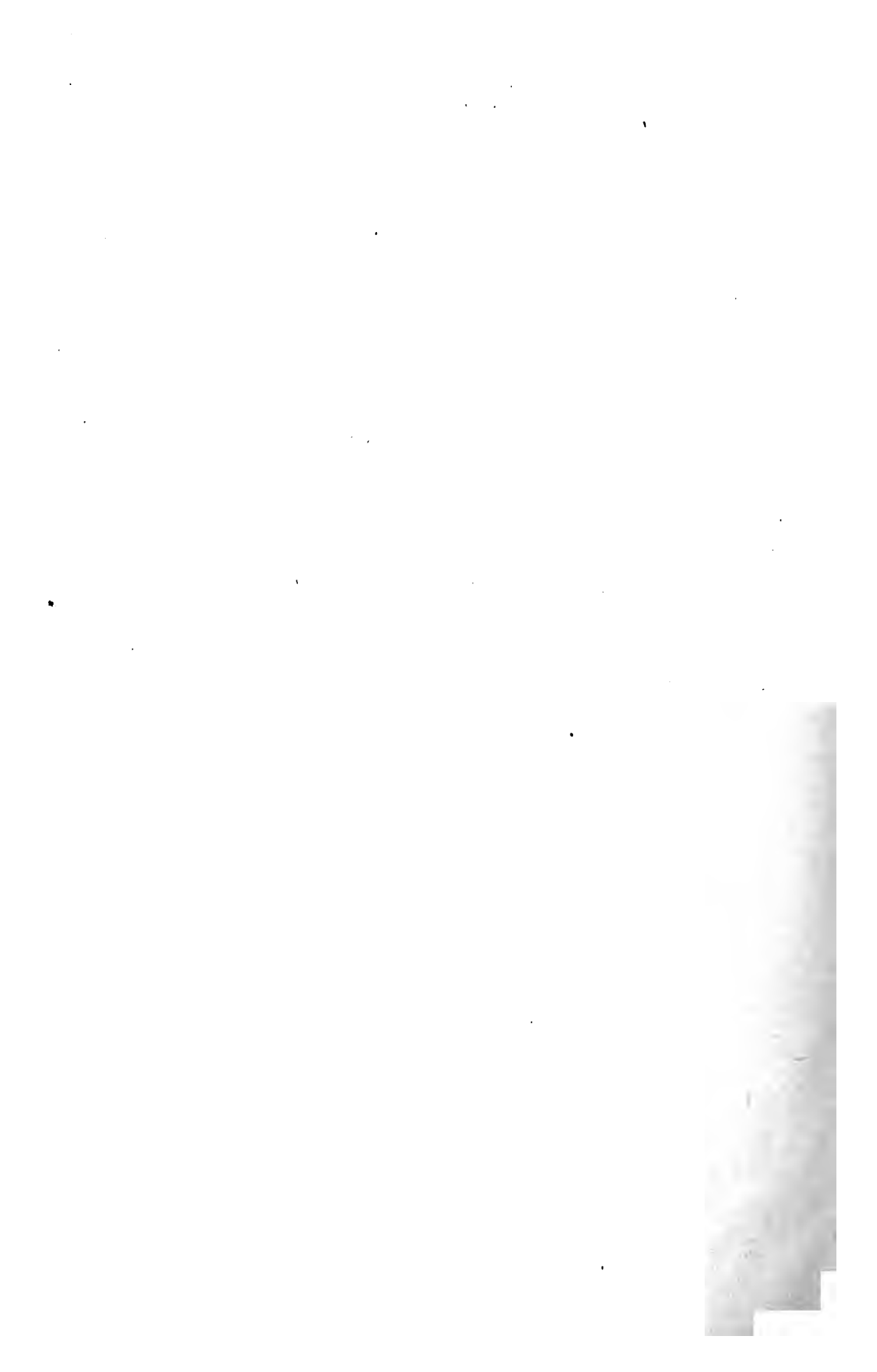
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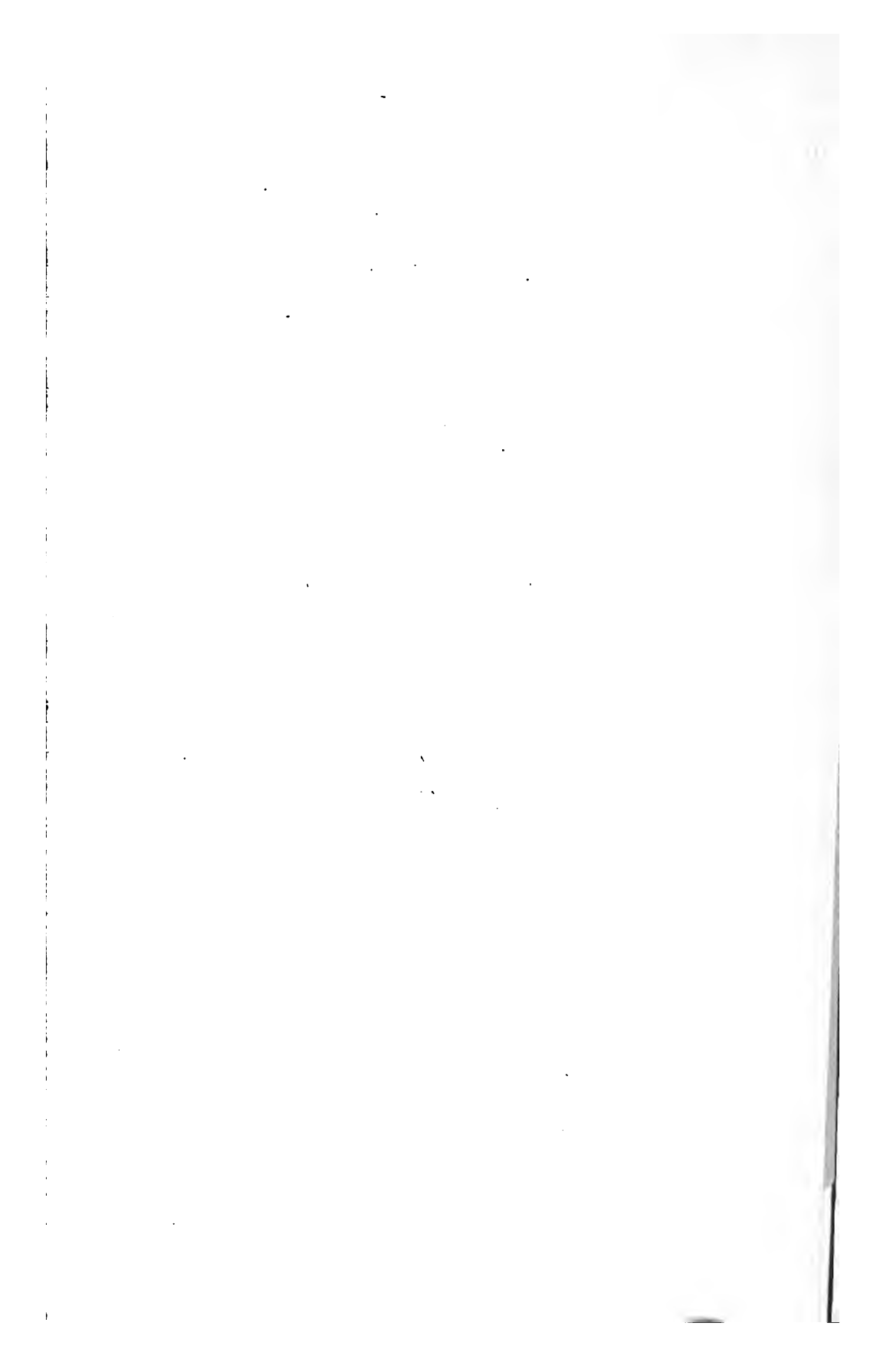
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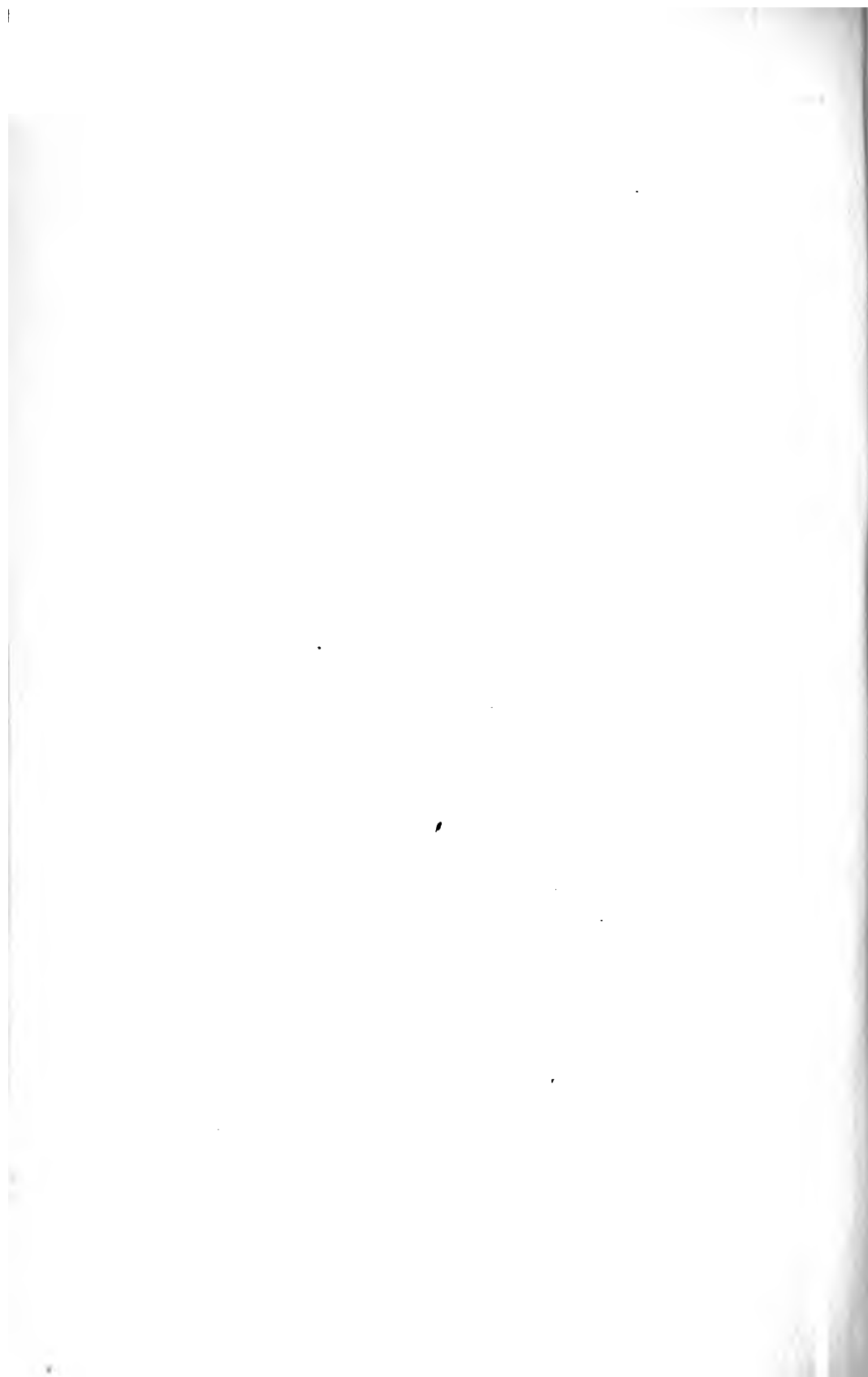












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